


GEN 3

1961-1970

11-14



Digitized by the Internet Archive
in 2012 with funding from

Federally funded with LSTA funds through the Massachusetts Board of Library Commissioners



Washington Report

(NOT PRINTED AT GOVERNMENT EXPENSE)



Congressman Hastings Keith • 9th District, Massachusetts

June 1961

Dear Friends:

As Congressional action on the proposed Cape Cod National Seashore rapidly comes to a head, I would like to outline for you the history of the legislation and analyze its present status.

Long before I introduced my bill to create this seashore, the federal government was preparing its case for acquiring it. Cape Cod was first mentioned in a National Park Service survey in 1955. In this survey recommendations calling for preservation of some of the most outstanding features of the Cape were made. The Great Beach and Monomoy Island only were mentioned as suitable for federal ownership.



View of the Great Beach

Another study was inaugurated in May 1957 by the Park Service. It was completed in September 1958. This study concluded "... that approximately 29,000 acres of land within the towns of Provincetown, Truro, Wellfleet, Eastham, Orleans, and Chatham, should be preserved as a National Seashore."

While the federal government was studying, several Massachusetts Congressmen were introducing proposals to create a Cape Cod National Park. They provided simply that the Secretary of Interior should declare 30,000 acres of the Cape as a national park.

While I recognized the merits of the pending legislation, I became increasingly concerned with the problem of providing adequate protection for the property owners, along with sufficient space for the normal economic growth and development of the towns involved. I soon joined with Senators Saltonstall and Kennedy, who shared my concern, and we began several months of hard work in drafting a bill which would recognize the unique character of the area and its problems.

In my opinion, the bill which we introduced in September 1959 provided an excellent framework for establishing a seashore on the Cape. As Senator Kennedy said in introducing our bill, "We believe that this bill which is uniquely designed for Cape Cod does properly harmonize the national, state and private interests which are involved in a venture of this nature. We believe that it provides every reasonable protection to the private residential landowner and that it brings the Park within realistic financial means for the Federal Government."



Rolling Heathlands in Truro

The measure contained several provisions unique to national park legislation, the most important of which are:

It permitted all residences constructed prior to September 1959 to remain in private ownership, so long as the town in which the property is located has a zoning code approved by the Secretary of Interior. This protected for all time the homeowner and gave the towns the tax revenue from the property.

It provided for the return of 10% of the privately owned land included in the seashore to each town for future growth and revenue.

It provided for payments in lieu of taxes to compensate for any dip in tax revenue which might result from acquisition of property for the seashore.

It established an Advisory Commission to help set the policies governing the establishment of the seashore and its future administration.

Early in 1961, after a great deal of thought about our bill and countless conversations and correspondence with interested and affected persons, I introduced several amendments to the bill. These were later adopted by both the Senate and House committees.

Among these amendments were several which improved the Advisory Commission provision of our bill. These increased the membership from nine to ten, in order to include a member appointed by the County Commissioners of Barnstable, enabling the rest of the Cape -- those areas not immediately affected by the actual land taking, but which will have to cope with such problems as will arise from the neighboring seashore -- to be represented.



Salt Pond, Eastham

I also offered an amendment which calls for the advice of the Commission on establishment of public use areas for recreation as well as commercial or industrial uses. All of these amendments I felt would give greater voice to the local towns in the administration of the seashore. Since the boundaries included so much of the privately owned land in each of the towns, I knew that the success of the seashore would depend upon the cooperation and mutual trust between the Cape and the federal government.

Perhaps the most important aspect of the measure which caused me concern was the emphasis of "recreation" in contrast to "conservation." I felt it was absolutely necessary that the intent of Congress to primarily conserve the area be made clear.

In order to do this, I eliminated from the language of the bill almost every reference to recreation and offered an amendment which revised the uses for which the Secretary could develop the seashore, thereby making our intention to conserve even more emphatic.



Pilgrim Lake, Truro

Conservation should be clearly spelled out in the legislation, for the major intent of the federal government in its desire to administer this area was to preserve it for the enjoyment of future generations in as close to its present state as possible - thus preventing it from becoming a congested resort area similar to much of the Atlantic coast shoreline.

We all know that there are at present sufficient recreational facilities in Massachusetts and along the Eastern Seaboard to accomodate those who seek them out. To make the Cape "America's recreational playground" would have been to destroy the very beauties and character of the area, which the federal government was attempting to preserve. These revisions I offered to the proposal did much to improve the purposes for which the national seashore will be designed.

As you can see from the map, the Subcommittee and later the full House Committee returned additional property for high grade residential development to the towns of Truro, Wellfleet and Chatham. Both Provincetown and Orleans had indicated that they did not need additional land. The Subcommittee failed to return to the town of Eastham the property it desired -- namely, the Fort Hill area.



View of Nauset Marsh

Before discussing the future of this measure, I would like to take this opportunity to let you know that we of Southeastern Massachusetts owe a special word of thanks to Congressmen Philbin, Boland, O'Neill, Burke, Lane, Morse and Conte -- all of these Massachusetts Congressmen have shown their interest in the seashore by filing legislation on the subject.

Where do we go from here? Within the next few days both houses of the Congress will vote on their respective versions of the national seashore proposal. Since the measures will differ in some respects, they will be sent to a conference committee, where the differences will be ironed out. The conference committee will be composed of members of the House and Senate Interior and Insular Affairs Committees -- in equal numbers.

The House version, I hope, will be adopted by the conference committee. To me, the provisions of the House bill represent the essential minimum to assure a national seashore which will work to the benefit of both the Cape and the Nation.

I will continue my efforts to make my views known to all of my colleagues, and particularly to those who will represent the House on the conference committee. Our fate will depend upon their determination and enthusiasm for the House version.



Gull Pond in Wellfleet

In conclusion, let me say that I have worked conscientiously and hard for what I have believed right -- right for both the Cape and the Nation. It has been a difficult assignment at best. People have written me that no one on the Cape wants the seashore; others have written that everyone wants the Senate version.

But the majority of the correspondence I have received indicates that most of you share my view that the House bill represents the basic essentials for a worthwhile and workable seashore -- and that further alteration of this measure could prove harmful to the interests of both the Nation and the Cape. I will devote every bit of energy to assuring final passage of the House bill.

Sincerely,

Hasting Keith



The Boundaries as They Appeared in our Original 1959 Bill

Since the introduction of our original bill, the sponsors, the Park Service, and many of the individuals and towns involved, agreed that the 10% clause would be difficult to administer and that any property the towns would need for future growth should be eliminated prior to the enactment of the legislation.

In view of this decision our two Massachusetts Senators, Saltonstall and Smith, revised their bill early this year, returning land to the towns of Truro, Wellfleet and Eastham. I put these revisions in on the House-side, along with additional boundary changes requested by the towns.



The Boundaries as Revised by our Senators in 1961 and
Adopted by the Full Senate Committee

Late in March of this year, the House Subcommittee on National Parks began to "mark up" the bill. This means that they went through the bill word by word, making such additions and deletions as they felt necessary.

One of the first sections they deleted from the bill was that providing payments in lieu of taxes. The provision was subsequently stricken by the Senate Subcommittee, also. The major reason for the striking of this section was that there is presently pending before both the House and Senate a general bill providing uniform payments in lieu for all federal government land takings. Both houses have refused to enact specific payments in lieu clauses pending disposition of the general legislation.

With the removal of payments in lieu of taxes, it became essential, in my opinion, that some land for high grade residential development be returned to each of the towns which needed it -- to help preserve the tax base, and to alleviate in some degree the adverse effects of the absence of payments in lieu of taxes. It was to this end that I concentrated my efforts during the past six weeks -- appearing informally before the Subcommittee and talking individually with each of the members.



The Boundaries as Adopted by the Full House Commit.





Gone 6/30/66 \$ 7/1/66
CCNS 5.2 v1

NEWS



From
**CONGRESSMAN
HASTINGS KEITH**
12TH MASSACHUSETTS DISTRICT



10

1111 Longworth Office
Bldg. (202) 225-3111

FOR RELEASE: Immediately

WASHINGTON, June 30 -- Representative Hastings Keith (R-Mass.) filed a bill today seeking \$12 million in additional funds to complete land acquisition for the Cape Cod National Seashore.

Keith, who was a sponsor of the bill that established the seashore, told his House colleagues that 13,700 acres remain to be acquired for the park -- but there is only \$1 million left of the \$16 million Congress authorized in 1961.

The increased authorization is necessary, at least in part, "because of considerable increases in the price of seashore land," the Bay State legislator explained, adding that such increases are inevitable because "there is only a limited amount of choice land for our growing population."

He stressed that Congress must act promptly to authorize and appropriate the additional funds before prices expand any further.

Keith recalled that many witnesses who testified at hearings on the seashore establishment bill predicted the proposal would exceed National Park Service cost estimates and that they might now say, "I told you so."

The veteran lawmaker recalled this, he said, for purposes of encouraging Congress to "proceed with the acquisition of other proposed parks and seashores and to...look realistically at projected costs of future parks."

TR for Add 1



keith, add 1

Sixty million Americans live within relatively easy access of Cape Cod. "These people present a threat to the very existence of this scenic area. At the same time, this is an opportunity for city dwellers to enjoy the unspoiled natural beauty of the Cape if we make the effort to preserve it.

"I hope that Congress will give prompt approval to this increased authorization so the rest of the Cape Cod National Seashore can be acquired with a minimum of delay and expense," Keith concluded.

The seashore bill, which was signed into law by the late President Kennedy, authorizes the acquisition of 27,700 acres in the Towns of Provincetown, Truro, Wellfleet, Orleans, Eastham and Chatham. The seashore was dedicated last May 30.



NEWS

From
**CONGRESSMAN
HASTINGS KEITH**

12TH MASSACHUSETTS DISTRICT



10

FOR RELEASE: Immediately

1111 Longworth Office Bldg.
(202) 225-3111

WASHINGTON, June 15, 1967 -- Representative Hastings Keith (R., Mass.) filed a bill today seeking \$12 million in additional funds to complete land acquisition for the Cape Cod National Seashore.

Keith, who was a sponsor of the bill that established the seashore, told his House colleagues that 8,271 acres remain to be acquired for the park -- but that the \$16 million authorized by Congress in 1961 for land purchase has been expended. As soon as additional funds are authorized, the Park Service can continue its land purchase program with funds which already have been appropriated for the purchase of park land throughout the country.

The increased authorization is necessary, at least in part, "because of considerable increases in the price of seashore land," Keith explained, adding that such increases are inevitable because "there is only a limited amount of choice land for our growing population."

He stressed that Congress must act promptly to authorize the additional funds before prices expand any further.

Sixty million Americans live within relatively easy access of Cape Cod. "These people present a threat to the very existence of this scenic area. At the same time, this is an opportunity for city dwellers to enjoy the unspoiled natural beauty of the Cape if we make the effort to preserve it.

"I hope that Congress will give prompt approval to this increased

-more-

-2-

authorization so the rest of the Cape Cod National Seashore can be acquired with a minimum of delay and expense," Keith concluded.

The seashore bill, which was signed into law by the late President Kennedy, authorizes the acquisition of 27,700 acres in the towns of Provincetown, Truro, Wellfleet, Orleans, Eastham and Chatham. The seashore was dedicated May 30, 1966.

-end-



Washington Report



Congressman Hastings Keith • 12th District, Massachusetts

(NOT PRINTED AT GOVERNMENT EXPENSE)

JULY 1970

—**A TRIBUTE**—



GENERAL GEORGE W. CASEY
Commander
U.S. 1st Air Cavalry Division

One week after I visited General George W. Casey of Scituate in South Vietnam where he was serving in the field, he was killed in a helicopter crash with six of his men.

When he was first reported missing, I inserted in the Congressional Record a statement that: "...I found him to be more than just a division commander or a tactician. I found him to be a man interested in the far broader aspects of foreign policy than just the limited part played by military action."

(Please turn to back page)

91st CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 91-1276

UNITED STATES INVOLVEMENT IN SOUTHEAST ASIA

SUPPLEMENTAL VIEWS OF HONORABLE HASTINGS KEITH OF MASSACHUSETTS TO ACCOMPANY, THE FINAL REPORT OF THE SELECT COMMITTEE ON UNITED STATES INVOLVEMENT IN SOUTHEAST ASIA, THE U.S. HOUSE OF REPRESENTATIVES, 10 JULY 1970

INTRODUCTION

Nearly six years ago the Tonkin Gulf Resolution was adopted by both Houses of Congress. It made possible the commitment of U.S. combat forces in significant numbers on the Asian mainland. The very brief and inadequate debate at the time failed to bring out what such a course of action would mean to us as a nation in the years to come.

Now, after the irreplaceable loss of over 40,000 American lives, the drain of more than \$100 billion from our treasury, the impact of unbearable inflation, and the resultant strain on our social and political fabrics, we are once again debating a course of action in this part of the world. This time, however, the Congress and the public are much more informed and involved.

Upon learning that a House select committee would conduct the first in-depth, on the spot examination of all the aspects of our Southeast Asian involvement, I asked to be considered for service on such a committee. I did not want to experience again another debate such as that on the Tonkin Gulf Resolution

In recent years Congressional rules and customs have inhibited extensive foreign policy debate. The situation now appears to be changing. Congress is at last getting involved in foreign policy—and it is beginning to discuss its details in full. Complete and factual information on our overall military posture and national foreign policy strategy is essential if Congress is to vote intelligently on these matters of grave national and international concern.

GENERAL OBSERVATIONS

Although subscribing in general to the "consensus" expressed in the basic report signed by the chairman of the Select Committee, the following personal observations—distilled with careful consideration from the notes made on the trip—should be presented to my colleagues and my constituents:

1) The United States must continue to withdraw its troops from Southeast Asia, as speedily as possible. Nothing I saw or heard indicated the need to slow down this process, or to change the concept and execution of orderly disengagement.

2) The United States must continue to provide moderate, but realistic levels of economic assistance and supplies of military equipment to South Vietnam and the other Southeast Asian countries. In return, South Vietnam and these other countries must continue to demonstrate progress toward development as democratic and independent nations with the capacity to protect their peoples and merit their support

3) The Thieu government is becoming increasingly effective and responsive despite some corrupt and inhumane practices. One such example of this is the Con Son prison situation brought to light by two of my colleagues. Such shocking activity cannot be condoned by the United States and is, of course, personally, deplorable to me. The continuation of this part of their prison system simply is not acceptable. I am certain that Ambassador Bunker and the U.S. AID officials are pursuing the matter with South Vietnamese officials, and I am positive that action will be taken. On balance, South Vietnam is nevertheless on its way to becoming a democratic nation.

4) Despite some mistakes in the past, we are making visible progress in assisting South Vietnam to repel aggression and subversion. The Vietnamese are on their way to becoming an independent nation.

5) From the strategic and tactical viewpoint, the Cambodian operation was a success. However, I doubt that another such invasion can or should be made in light of the April 30th invasion's impact domestically. Further, no American combat troops, support troops, air power or financing of 3rd nation troops should be committed in support of the Cambodian government, without explicit Congressional authorization.

6) If the nations of Southeast Asia, are to enjoy an independent and progressive future, it can best be achieved through regional cooperation.

7) Indonesia must play a major role in the future development of security and economic progress in Southeast Asia. Thailand also must be significantly involved, and Singapore will play a more influential economic role than the size of her population and land area might suggest.

8) To date, the Philippines and Japan have not contributed their fair share toward bringing about a peaceful and progressive resolution of the situation in Southeast Asia. It would seem that the United States contribution to their freedom and economic independence would warrant a greater economic and financial commitment on their part in aiding other countries seeking to join the community of free nations.

9) Due to the inability and/or unwillingness of the other Southeast Asian nations to contribute combat troops for her assistance, Cambodia must provide the troops and the principal resources for her own defense. In the longrun, developments in Cambodia will have to result from the effectiveness and responsiveness of the Cambodian government.

10) Despite the fact that Asian leaders accept the Nixon Doctrine and despite the fact that much of the Doctrine is workable and is a reflection of historical as well as current U.S. foreign policy, there is a major gap in the realistic applicability of its logic: a regional defense organization is from five to ten years away, but the United States combat forces will and should be out of the area long before such a defense organization becomes effective. *This gap must be resolved in another fashion if the Nixon Doctrine is to work.*

11) In my visits to many villages and hamlets throughout Southeast Asia I found much evidence of malnutrition. More extensive use of soybean and fish protein concentrates would help alleviate this condition. Malnutrition greatly limits the ability of individuals to help work toward and develop democratic institutions. The need for such protein aids will once again be brought to the attention of the proper government authorities. This is yet another reason to liberalize our policies affecting processing and marketing of fish protein concentrates.



THE NIXON DOCTRINE

It seems to me that the most important conclusion drawn from the trip is related to the feasibility of applying the Nixon Doctrine; this was expressed first at Guam, and was incorporated in the President's report to the Congress on February 18, 1970. It played a major part in his June 30th report on Cambodia.

The Administration's position is based upon the United States:

- 1) keeping all of its treaty commitments.
- 2) providing a shield against threats by a nuclear power to the freedom of a nation allied with us or a nation whose survival we consider vital to our security and the security of the region as a whole, and
- 3) providing military and economic assistance when requested and as appropriate in cases involving other types of aggression.

However, the United States looks to the nation directly threatened to assume the primary responsibility of providing manpower for its defense. This basic policy of the present Administration is consistent with the national policy expressed in the United States Public Law as the Foreign Assistance Act of 1961, amended through 1969.

But, underlying the announced United States policy of assisting threatened nations is the U.S. global policy of collective defense on a regional basis. Our objective in Southeast Asia, as the President stated in Bangkok on July 28, 1969, is a "community of independent Asian countries, each maintaining its own traditions and yet each developing through mutual cooperation." In his June 20 Report on the Cambodian Operations, the President reaffirmed the basic principle of "our support for regional defense efforts," as a necessary element in bringing peace to Southeast Asia.

Following discussions with the Leaders in Thailand, Indonesia and Singapore, the Southeast Asian nations I visited, I found that they do believe in the appropriateness of the overall Nixon Doctrine. As one Foreign Minister said, "The Nixon Doctrine is what you should have been doing all along." It was pointed out specifically and vigorously by the Southeast Asian leaders that (with the one exception of the Republic of Vietnam and then only at a time when its very survival was threatened) no Southeast Asian nation has asked for U.S. combat troops. They did not expect to ask for our men in the future.

The Southeast Asian nations do, collectively, have the manpower available to provide for their defense. However, it appears to me that there is now—and will continue to be for some time—the need for material, technical and economic assistance, as was pointed out by the President on June 30. Without such help the Southeast Asian nations, either alone or collectively, cannot meet the threats to their national and regional security now posed by externally supported communist aggression and subversion. In particular, the Southeast Asian nations feel in common that they are too small and too weak economically and militarily, either by themselves or collectively, to cope with the colossus to the north. The weight of Communist China hangs over the whole area, and will continue to do so.

For future national and regional development of the Southeast Asian region, to include the mainland and insular areas, I found hope in the several existing regional organizations for economic, cultural and political cooperation, particularly the World Bank and the Asian Development Bank....

My discussion with Southeast Asian leaders makes clear to me that, despite the urgency of the present situation, it is not feasible for us to expect Southeast Asia regional security arrangements to be made effective for the next five or ten years. Yet right now, the United States, in execution of the Nixon Doctrine and in return to a national policy in effect since the Eisenhower era, is irreversibly redeploying its troops in an orderly and firm progression. Hence, it could be construed by pessimists, there now is a gap developing in the present Administration's policy and planning relative to the realities of the Southeast Asian nations' internal and regional defense capabilities. Such a gap could negate in practice the full application of the Nixon Doctrine.

Therefore, some might say, there should be a more realistic approach to obtaining security in Southeast Asia before the House can support with more funds the continued execution of the Nixon Doctrine.... I believe that the answer lies in applying the fundamental basis of the Nixon Doctrine. The nation that is threatened by other than a nuclear power must provide the manpower for its own defense; we may assist that nation with material and economic assistance, but not manpower, if our national interest is at stake. In the case of South Vietnam we have made the mistake, in 1965 through 1967, of putting in an overwhelming number of American soldiers. We virtually forced the Vietnamese to take a sideline seat to watch U.S. soldiers defend their nation. Only recently have "Vietnamization" and our application of the Nixon Doctrine to Vietnam begun to rectify that grievous error. Now, in the case of Cambodia, the very inability or unwillingness of their Southeast Asian neighbors to commit troops to Cambodia's defense may well become the basis for her eventual real independence and greater strength. By being forced to stand alone in furnishing soldiers for her internal defense. Cambodia in the longrun will have a stronger and more viable internal security situation. Though at first she may have to give ground, and though the going may be rough and bloody, she probably will grow more surely and steadily!

I cannot forget the ruggedly effective independence of the Indonesians, so apparent during my discussions with Mr. Malik and with the other highly capable officials and citizens of that now independent nation. I attribute much of this independence to their having achieved that independence through their own efforts.

An application of the Nixon Doctrine that, in the early years to come, sets aside the concept of regional military defense efforts (while the nations help one another economically) is a tough but realistic approach in the long run. After all, our own United States government does not yet have an adequately effective system for managing our assistance efforts on a regional basis. More importantly, the lessons of Southeast Asian history as well as the lessons we should have learned from earlier years of the Vietnam war make clear that by keeping troops of would-be allies out of other nations, and by thus forcing the burden of defense on the nation's own men and their leaders, a far more solid basis for internal independence can be developed. Such an effort may seem to take longer, and may well be bloodier—at first; but, the results will be more lasting.

JAPAN AND INDONESIA

The Republic of Japan has become the world's third largest economic power in the short space of 25 years. Today, any traveller through Southeast Asia is struck by the predominance of Japanese made consumer items such as cars, buses, radios and other consumer goods. And today, as for the past 25 years, Japan operates under the umbrella of American protection....

Clearly, as our military forces are withdrawn, the need will increase for economic assistance in Vietnam. And, just as clearly, Japan has the capacity for providing such additional assistance. Yet although Japan continues to exploit the favorable trade conditions brought about by the present economic situation in Vietnam, she does so without bearing a fair share of economic assistance to that beleaguered country....

Without a doubt, Japan has one of the greatest stakes in the preservation of pro-free world governments on the Southeast Asian mainland. And, without a doubt, its political, economic, and social stability

5.4.4
depends on a continued alignment with majority of the non-communist nations in that part of the world. Its defense needs are provided for by the treaty with the United States.

It is, therefore, my considered belief that the Japanese government should greatly expand its economic aid and financial assistance to the government of South Vietnam, and also to other democratic governments of Southeast Asia. I would further recommend that the executive branch of the U.S., and particularly the State Department, do everything in its power to encourage such an expansion of economic and financial aid on the part of the Japanese government.

Likewise, Indonesia has a tremendous stake in the preservation of non-communist governments on the Southeast Asian mainland. Unlike Japan, however, their political, social and economic situation does not now permit massive involvement in the struggle against communist aggression....

LAND REFORM

I disagree with the report's short and skeptical comments on the Saigon Government's land reform program. From all that I saw on the trip, and have learned since then, it appears to me that land reform is one of the most promising present programs of the Thieu government....

AND FINALLY

Although the U.S. clearly cannot and will not be the policeman for our world, this does not mean we can leave that world to its own devices. We can and must assist our friends. But, we must not subvert their independence and, obviously, should not do their job for them (as we did for a while in Vietnam). To do this would not only bankrupt us, but would destroy their integrity and their pride as a nation.

The United States nuclear shield is not enough, and conventional military force, as we now know, is often inappropriate. Regional cooperation is essential, and yet even that can be inadequate if the present and potential great powers in world politics compete amongst themselves in the manner so prevalent in this world today.

We in the Congress will have to assess the new departures in the Administration's proposed policies and programs. These will require new legislation, based upon new understandings which can be acquired on trips such as the Select Committee's visit to Southeast Asia.

This trip, like other "fact-finding" commissions before it, has added greatly to our knowledge of world problems and how they relate to our people and to those who live in the countries which we visited. It has been imposed upon, and to some extent detracted from, an already extraordinarily busy Congress—a Congress concerned with inflation in our economy, with hospital care, with the solvency of railroads, with postal reform, with the misbehaving stock market and with numerous other national problems. But, the war in Vietnam affects all of these things today. And, the longrun stability of Southeast Asia is directly related to the future well-being and stability of my constituency in Southeastern Massachusetts....



(Continued from first page)
"... General Casey is the type of military man this country needs, a man dedicated not just to winning wars but to winning a just world peace..."

When he was killed, he was on a mission that indicates the kind of man he was. General Casey was flying to visit the wounded men of his division. He was an exemplary man as his neighbors in Scituate and his soldiers in Vietnam have attested.

General Casey was a man of great compassion to whom heavy responsibility came naturally. His death is a great loss not only to his wife, Elaine, and their five children, but to the entire nation. Men like George Casey are not easily forgotten and can never be replaced.

Congress of the United States
House of Representatives

OFFICIAL BUSINESS

Hastings Keith
M. C.

POSTAL PATRON—LOCAL

12TH CONGRESSIONAL DISTRICT

MASSACHUSETTS

GENS - Legislation
(1860-1868) 1: - 16



An Act

75 STAT. 284.

To provide for the establishment of Cape Cod National Seashore.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the area comprising that portion of the land and waters located in the towns of Provincetown, Truro, Wellfleet, Eastham, Orleans, and Chatham in the Commonwealth of Massachusetts, and described in subsection (b), is designated for establishment as Cape Cod National Seashore (hereinafter referred to as "the seashore").

Cape Cod
National Sea-
shore, Mass.
Establishment.

(b) The area referred to in subsection (a) is described as follows:

Beginning at a point in the Atlantic Ocean one-quarter of a mile due west of the mean low-water line of the Atlantic Ocean on Cape Cod at the westernmost extremity of Race Point, Provincetown, Massachusetts;

thence from the point of beginning along a line a quarter of a mile offshore of and parallel to the mean low-water line of the Atlantic Ocean, Cape Cod Bay, and Provincetown Harbor in generally southerly, easterly, and northerly directions rounding Long Point and then southwesterly to a point a quarter of a mile offshore of the mean low-water line on the harbor side of the dike depicted on the United States Geological Survey Provincetown quadrangle sheet (1949) crossing an arm of the Provincetown Harbor;

thence northerly, along a line a quarter of a mile offshore of and parallel to the low-water line at the dike to a point easterly of the point of intersection of the said dike with the boundary of the Province Lands Reservation as depicted on the said Provincetown quadrangle sheet;

thence westerly to the said point of intersection of the dike and the Province Lands Reservation boundary;

thence along the boundaries of the Province Lands Reservation northwesterly, northeasterly, northerly, and easterly to the easternmost corner of the reservation being near United States Route 6;

thence leaving the said easternmost corner along an extension of the southerly reservation boundary line easterly to the northerly right-of-way line of United States Route 6;

thence along the northerly right-of-way line of United States Route 6 in a general easterly direction crossing the Truro-Provincetown line and continuing in the town of Truro in a generally southeasterly direction to a point four-tenths of a mile southeasterly of the southerly right-of-way line of Highland Road;

thence easterly five-tenths of a mile to a point;

thence turning and running in a southeasterly direction paralleling the general alinement of United States Route 6 and generally distant therefrom five-tenths of a mile to a point approximately 700 feet northwesterly of Long Nook Road;

thence southwesterly along a ridge generally paralleling the alinement of Long Nook Road and distant approximately 700 feet therefrom to a point two-tenths of a mile northeasterly of the northerly right-of-way line of United States Route 6;

thence southeasterly paralleling the general alinement of United States Route 6 and generally distant two-tenths of a mile northeasterly thereof to a point 300 feet south of the southerly right-of-way line of Higgins Hollow Road;

thence in a general easterly direction paralleling the southerly alinement of Higgins Hollow Road and 300 feet distant southerly therefrom to a point five-tenths of a mile east of the easterly right-of-way line of said Route 6;

thence turning and running in a southeasterly and southerly direction paralleling the general alinement of United States Route 6 and distant five-tenths of a mile easterly therefrom to a point 300 feet north of the northerly right-of-way line of North Pamet Road;

thence in a generally southwesterly direction paralleling the general alinement of North Pamet Road and generally distant 300 feet northerly therefrom to a point approximately two-tenths of a mile east of the easterly right-of-way line of United States Route 6;

thence in a southerly direction paralleling the alinement of United States Route 6 and generally distant two-tenths of a mile easterly therefrom to a point three-tenths of a mile south of South Pamet Road;

thence west to the intersection of Old County Road and Mill Pond Road;

thence following the easterly right-of-way line of Old County Road southward to a point opposite the southerly right-of-way line of Ryder Beach Road at its intersection with Old County Road;

thence eastward to a point 300 feet east of the easterly right-of-way line of said Old County Road;

thence in a southerly direction paralleling Old County Road at a distance of 300 feet to the east of the easterly right-of-way line of said road to a point 600 feet south of the southerly right-of-way line of Prince Valley Road;

thence in a generally westerly direction, crossing Old County Road and the New York, New Haven, and Hartford Railroad right-of-way to the southern extremity of the town landing and beach in the Ryder Beach area, and continuing to a point in Cape Cod Bay a quarter of a mile offshore from the mean low-water line of Cape Cod Bay;

thence turning and running along a line a quarter of a mile offshore of and parallel to the mean low-water line of Cape Cod Bay in a general southerly and easterly direction rounding Jeremy Point and thence in a general northerly direction along a line a quarter of a mile offshore of and parallel to the mean low-water line on the westerly side of Wellfleet Harbor, to a point one quarter of a mile due north of the mean low-water line at the eastern tip of Great Island as depicted on the United States Geological Survey Wellfleet quadrangle sheet (1958);

thence north to the mean high-water line on the north shore of the Herring River estuary in the vicinity of its confluence with Wellfleet Harbor;

thence following the mean high-water line southwesterly, northwesterly, and northeasterly to the easterly right-of-way line of Chequesset Neck Road at its crossing of Herring River;

thence following the course of Herring River along the 20-foot contour line of the southeasterly shore thereof to a point near Mill Creek;

thence crossing Mill Creek in a northeasterly direction to the 20-foot contour level near to and northeast of the confluence of Mill Creek and Herring River;

thence following generally northerly and easterly along the easterly edge of the Herring River marshes on the 20-foot contour

to a point north of which the easterly right-of-way line of a medium duty road, as depicted on said Wellfleet quadrangle sheet, crosses northward across a marshy stream near the juncture of said medium duty road with Bound Brook Island Road;

thence crossing said marshy stream along said easterly right-of-way line of said medium duty road, and continuing in a northerly direction to the 20-foot contour level on the north side of said marshy stream;

thence following the 20-foot contour line westward approximately 1,000 feet to its intersection with an unimproved dirt road, as depicted on said Wellfleet quadrangle sheet, leading from a point near the juncture of Bound Brook Island Road and the said medium duty road;

thence following said unimproved dirt road northwesterly for approximately 1,600 feet to the 20-foot contour line bordering the southerly edge of the Herring River marshes;

thence following said 20-foot contour line in an easterly direction to Route 6;

thence crossing Route 6 and continuing to a point on the easterly right-of-way line of a power transmission line as depicted on said Wellfleet quadrangle sheet;

thence in a general southerly direction along the said easterly right-of-way line of a power transmission line to the Eastham-Wellfleet town line;

thence southeasterly for a distance of approximately 5,200 feet to a point due north of the intersection of the easterly right-of-way line of Nauset Road with the northerly right-of-way line of Cable Road;

thence due south to the intersection of the said easterly right-of-way line of Nauset Road and the said northerly right-of-way line of Cable Road;

thence in a general southerly direction crossing Cable Road and along said easterly right-of-way line of Nauset Road to a point 500 feet north of the northerly right-of-way line of Doane Road and its intersection with Nauset Road;

thence west to a point 500 feet west of the westerly right-of-way line of Nauset Road;

thence southerly and westerly 500 feet from and parallel to the said right-of-way line of Nauset Road to the easterly right-of-way line of Salt Pond Road;

thence southerly along the easterly right-of-way line of said Salt Pond Road to its intersection with the southerly right-of-way line of Nauset Road;

thence westerly along the southerly right-of-way line of Nauset Road to its intersection with the easterly right-of-way line of United States Route 6;

thence southerly along the easterly right-of-way line of said Route 6 a distance of about four-tenths of a mile to the northerly boundary of the Eastham town hall property;

thence easterly to a point one-tenth of a mile from United States Route 6;

thence turning and running in a generally southerly direction paralleling the general alinement of United States Route 6 and generally distant therefrom one-tenth of a mile to a small stream approximately one-tenth of a mile beyond Governor Prence Road extended;

thence southeasterly along the said stream to the Orleans-Eastham town line;

thence along the Orleans-Eastham town line to the southerly tip of Stony Island;

thence generally southeasterly in the town of Orleans by Nauset Harbor Channel to a point due north of the northerly tip of Nauset Heights as depicted on United States Geological Survey Orleans quadrangle sheet (1946);

thence due south to the 20-foot contour line in Nauset Heights as delineated on the said Orleans quadrangle sheet;

thence generally southerly along the said 20-foot contour to a point about one-tenth of a mile northerly of Beach Road;

thence southwesterly along a line intersecting Beach Road at a point two-tenths of a mile easterly of the so-called Nauset Road leading northerly to Nauset Heights;

thence southerly to a head of a tributary to Little Pleasant Bay at the northerly tip of Pochet Neck as depicted on the said Orleans quadrangle sheet;

thence generally southerly along the thread of channel of the said tributary passing westerly and southwesterly around Pochet Island and thence southwesterly into Little Pleasant Bay passing to westerly of the northerly tip of Sampson Island, the westerly tip of Money Head, and the southwesterly tip of Hog Island following in general the centerline of Little Pleasant Bay to Pleasant Bay;

thence generally southeasterly in Pleasant Bay along a line passing midway between Sipson Island and Nauset Beach to a point on the Chatham-Orleans town line one-quarter of a mile westerly of the mean low-water line of Pleasant Bay on the westerly shore of Nauset Beach;

thence generally southerly in Pleasant Bay in the town of Chatham along a line a quarter of a mile offshore of and parallel to the said mean low-water line of Pleasant Bay on the westerly shore of Nauset Beach to a point a quarter of a mile south of the mean low-water line of the southern tip of Nauset Beach;

thence easterly rounding the southern tip of Nauset Beach along a line a quarter of a mile offshore of and parallel thereto;

thence generally northerly and northwesterly, and westerly along a line a quarter of a mile offshore of and parallel to the mean low-water line of the Atlantic Ocean on the easterly shore of Nauset Beach and on to the outer cape to the point of beginning.

SEC. 2. (a) The Secretary of the Interior (hereinafter referred to as "Secretary") is authorized to acquire by purchase, gift, condemnation, transfer from any Federal agency, exchange, or otherwise, the land, waters, and other property, and improvements thereon and any interest therein, within the area which is described in section 1 of this Act or which lies within the boundaries of the seashore as described pursuant to section 3 of this Act (both together hereinafter in this Act referred to as "such area"). Any property, or interest therein, owned by the Commonwealth of Massachusetts, by any of the towns referred to in section 1 of this Act, or by any other political subdivision of said Commonwealth may be acquired only with the concurrence of such owner. Notwithstanding any other provision of law, any Federal property located within such area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the provisions of this Act.

(b) The Secretary is authorized (1) to use donated and appropriated funds in making acquisitions under this Act, and (2) to pay

Acquisition of
land, etc.
Authority.

Funds.

therefor not more than the fair market value of any acquisitions which he makes by purchase under this Act.

(c) In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property located within such area and convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary within such area. The properties so exchanged shall be approximately equal in fair market value: *Provided*, That the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize the values of the properties exchanged.

The Secretary shall report to the Congress on every exchange carried out under authority of this Act within thirty days from its consummation, and each such report shall include a statement of the fair market values of the properties involved and of any cash equalization payment made or received.

(d) As used in this Act the term "fair market value" shall mean the fair market value as determined by the Secretary, who may in his discretion base his determination on an independent appraisal obtained by him.

Sec. 3. (a) As soon as practicable after the date of enactment of this Act and following the acquisition by the Secretary of an acreage in the area described in section 1 of this Act that is in the opinion of the Secretary efficiently administrable to carry out the purposes of this Act, the Secretary shall establish Cape Cod National Seashore by the publication of notice thereof in the Federal Register.

(b) Such notice referred to in subsection (a) of this section shall contain a detailed description of the boundaries of the seashore which shall encompass an area as nearly as practicable identical to the area described in section 1 of this Act. The Secretary shall forthwith after the date of publication of such notice in the Federal Register (1) send a copy of such notice, together with a map showing such boundaries, by registered or certified mail to the Governor of the Commonwealth of Massachusetts and to the board of selectmen of each of the towns referred to in section 1 of this Act; (2) cause a copy of such notice and map to be published in one or more newspapers which circulate in each of such towns; and (3) cause a certified copy of such notice, a copy of such map, and a copy of this Act to be recorded at the registry of deeds for Barnstable County, Massachusetts.

Sec. 4. (a) (1) The beneficial owner or owners, not being a corporation, of a freehold interest in improved property which the Secretary acquires by condemnation may elect, as a condition to such acquisition, to retain the right of use and occupancy of the said property for noncommercial residential purposes for a term of twenty-five years, or for such lesser time as the said owner or owners may elect at the time of such acquisition.

(2) The beneficial owner or owners, not being a corporation, of a freehold estate in improved property which property the Secretary acquires by condemnation, who held, on September 1, 1959, with respect to such property, an estate of the same nature and quality, may elect, as an alternative and not in addition to whatever right of election he or they might have under paragraph (1) of this subsection, to retain the right of use and occupancy of the said property for non-commercial residential purposes (i) for a term limited by the nature and quality of his or their said estate, if his or their said estate is a life estate or an estate pur autre vie, or (ii) for a term ending at the death of such owner or owners, or at the death of the survivor of them, if his or their said estate is an estate of fee simple.

(3) Where such property is held by a natural person or persons for his or their own life or lives or for the life or lives of another

Report to
Congress.

"Fair market
value."

Notice.
Publication
in F. R.

Acquisition
by condemna-
tion.
Provisions.

"The life tenant."

or others (such person or persons being hereinafter called "the life tenant"), with remainder in another or others, any right of election provided for in paragraph (2) of this subsection shall be exercised by the life tenant, and any right of election provided for in paragraph (1) of this subsection shall be exercised by the concurrence of the life tenant and the remainderman or remaindermen.

(4) The beneficial owner or owners of a term of years in improved property which the Secretary acquires by condemnation may elect, as a condition to such acquisition, to retain the right of use and occupancy of the said property for noncommercial residential purposes for a term not to exceed the remainder of his or their said term of years, or a term of twenty-five years, whichever shall be the lesser. The owner or owners of the freehold estate or estates in such property may, subject to the right provided for in the preceding sentence, exercise such right or rights of election as remain to them under paragraphs (1) and (2) of this subsection.

(5) No right of election accorded by paragraphs (1), (2), or (4) of this subsection shall be exercised to impair substantially the interests of holders of encumbrances, liens, assessments, or other charges upon or against the property.

(6) Any right or rights of use and occupancy retained pursuant to paragraphs (1), (2), and (4) of this subsection shall be held to run with the land, and may be freely transferred and assigned.

(7) In any case where a right of use and occupancy for life or for a fixed term of years is retained as provided in paragraph (1), (2), or (4) of this subsection, the compensation paid by the Secretary for the property shall not exceed the fair market value of the property on the date of its acquisition by the Secretary, less the fair market value on such date of the said right retained.

(8) The Secretary shall have authority to terminate any right of use and occupancy of property, retained as provided in paragraph (1), (2), or (4) of this subsection, at any time after the date when any use occurs with respect to such property which fails to conform or is in any manner opposed to or inconsistent with any applicable standard contained in regulations issued pursuant to section 5 of this Act and in effect on said date: *Provided*, That no use which is in conformity with the provisions of a zoning bylaw approved in accordance with said section 5 which is in force and applicable to such property shall be held to fail to conform or be opposed to or inconsistent with any such standard. In the event that the Secretary exercises the authority conferred by this paragraph, he shall pay to the owner of the right so terminated an amount equal to the fair market value of the portion of said right which remained on the date of termination.

(b) (1) The Secretary's authority to acquire property by condemnation shall be suspended with respect to all improved property located within such area in all of the towns referred to in section 1 of this Act for one year following the date of its enactment.

(2) Thereafter such authority shall be suspended with respect to all improved property located within such area in any one of such towns during all times when such town shall have in force and applicable to such property a duly adopted, valid zoning bylaw approved by the Secretary in accordance with the provisions of section 5 of this Act.

(c) The Secretary's authority to acquire property by condemnation shall be suspended with respect to any particular property which is used for commercial or industrial purposes during any periods when such use is permitted by the Secretary and during the pendency of the first application for such permission made to the Secretary after

Violation of regulations.

Suspension of authority.

the date of enactment of this Act provided such application is made not later than the date of establishment of the seashore.

(d) The term "improved property," wherever used in this Act, shall mean a detached, one-family dwelling the construction of which was begun before September 1, 1959 (hereinafter referred to as "dwelling"), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated. The amount of the land so designated shall in every case be at least three acres in area, or all of such lesser amount as may be held in the same ownership as the dwelling, and in making such designation the Secretary shall take into account the manner of noncommercial residential use in which the dwelling and land have customarily been enjoyed: *Provided, however*, That the Secretary may exclude from the land so designated any beach or waters, together with so much of the land adjoining such beach or waters as the Secretary may deem necessary for public access thereto.

"Improved property."

(e) Nothing in this section or elsewhere in this Act shall be construed to prohibit the use of condemnation as a means of acquiring a clear and marketable title, free of any and all encumbrances.

SEC. 5. (a) As soon after the enactment of this Act as may be practicable, the Secretary shall issue regulations specifying standards for approval by him of zoning bylaws for purposes of section 4 of this Act. The Secretary may issue amended regulations specifying standards for approval by him of zoning bylaws whenever he shall consider such amended regulations to be desirable due to changed or unforeseen conditions.

Issuance of regulations.

All regulations and amended regulations proposed to be issued under authority of the two preceding sentences of this subsection shall be submitted to the Congress and to the towns named in section 1 of this Act at least ninety calendar days (which ninety days, however, shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) before they become effective and the Secretary shall, before promulgating any such proposed regulations or amended regulations in final form, take due account of any suggestions for their modification which he may receive during said ninety-day period. All such regulations and amended regulations shall, both in their proposed form and in their final form, be published in the Federal Register.

Submission to Congress.

Publication in F. R.

The Secretary shall approve any zoning bylaw and any amendment to any approved zoning bylaws submitted to him which conforms to the standards contained in the regulations in effect at the time of the adoption by the town of such bylaw or such amendment unless before the time of adoption he has submitted to the Congress and the towns and published in the Federal Register as aforesaid proposed amended regulations with which the bylaw or amendment would not be in conformity, in which case he may withhold his approval pending completion of the review and final publication provided for in this subsection and shall thereafter approve the bylaw or amendment only if it is in conformity with the amended regulations in their final form. Such approval shall not be withdrawn or revoked, nor shall its effect be altered for purposes of section 4 of this Act by issuance of any such amended regulations after the date of such approval, so long as such bylaw or such amendment remains in effect as approved.

Zoning bylaws. Approval.

Special
provisions.

(b) The standards specified in such regulations and amended regulations for approval of any zoning bylaw or zoning bylaw amendment shall contribute to the effect of (1) prohibiting the commercial and industrial use, other than any commercial or industrial use which is permitted by the Secretary, of all property within the boundaries of the seashore which is situated within the town adopting such bylaw; and (2) promoting the preservation and development, in accordance with the purposes of this Act, of the area comprising the seashore, by means of acreage, frontage, and setback requirements and other provisions which may be required by such regulations to be included in a zoning bylaw consistent with the laws of Massachusetts.

(c) No zoning bylaw or amendment of a zoning bylaw shall be approved by the Secretary which (1) contains any provision which he may consider adverse to the preservation and development, in accordance with the purposes of this Act, of the area comprising the seashore, or (2) fails to have the effect of providing that the Secretary shall receive notice of any variance granted under and any exception made to the application of such bylaw or amendment.

(d) If any improved property with respect to which the Secretary's authority to acquire by condemnation has been suspended by reason of the adoption and approval, in accordance with the foregoing provisions of this section, of a zoning bylaw applicable to such property (hereinafter referred to as "such bylaw")—

(1) is made the subject of a variance under or an exception to such bylaw, which variance or exception fails to conform or is in any manner opposed to or inconsistent with any applicable standard contained in the regulations issued pursuant to this section and in effect at the time of the passage of such bylaw, or

(2) is property upon or with respect to which there occurs any use, commencing after the date of the publication by the Secretary of such regulations, which fails to conform or is in any manner opposed to or inconsistent with any applicable standard contained in such regulations (but no use which is in conformity with the provisions of such bylaw shall be held to fail to conform or be opposed to or inconsistent with any such standard), the Secretary may, at any time and in his discretion, terminate the suspension of his authority to acquire such improved property by condemnation: *Provided, however,* That the Secretary may agree with the owner or owners of such property to refrain from the exercise of the said authority during such time and upon such terms and conditions as the Secretary may deem to be in the best interests of the development and preservation of the seashore.

Certificate.

SEC. 6. The Secretary shall furnish to any party in interest requesting the same, a certificate indicating, with respect to any property located within the seashore as to which the Secretary's authority to acquire such property by condemnation has been suspended in accordance with the provisions of this Act, that such authority has been so suspended and the reasons therefor.

Administration.

SEC. 7. (a) Except as otherwise provided in this Act, the property acquired by the Secretary under this Act shall be administered by the Secretary subject to the provisions of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535), as amended and supplemented, and in accordance with laws of general application relating to the national park system as defined by the Act of August 8, 1953 (67 Stat. 496); except that authority otherwise available to the Secretary for the conservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of this Act.

16 USC 1-4.

16 USC 1b-1d.

(b) (1) In order that the seashore shall be permanently preserved in its present state, no development or plan for the convenience of visitors shall be undertaken therein which would be incompatible with the preservation of the unique flora and fauna or the physiographic conditions now prevailing or with the preservation of such historic sites and structures as the Secretary may designate: *Provided*, That the Secretary may provide for the public enjoyment and understanding of the unique natural, historic, and scientific features of Cape Cod within the seashore by establishing such trails, observation points, and exhibits and providing such services as he may deem desirable for such public enjoyment and understanding: *Provided further*, That the Secretary may develop for appropriate public uses such portions of the seashore as he deems especially adaptable for camping, swimming, boating, sailing, hunting, fishing, the appreciation of historic sites and structures and natural features of Cape Cod, and other activities of similar nature.

Protection and
development.

(2) In developing the seashore the Secretary shall provide public use areas in such places and manner as he determines will not diminish for its owners or occupants the value or enjoyment of any improved property located within the seashore.

(c) The Secretary may permit hunting and fishing, including shellfishing, on lands and waters under his jurisdiction within the seashore in such areas and under such regulations as he may prescribe during open seasons prescribed by applicable local, State and Federal law. The Secretary shall consult with officials of the Commonwealth of Massachusetts and any political subdivision thereof who have jurisdiction of hunting and fishing, including shellfishing, prior to the issuance of any such regulations, and the Secretary is authorized to enter into cooperative arrangements with such officials regarding such hunting and fishing, including shellfishing, as he may deem desirable, except that the Secretary shall leave all aspects of the propagation and taking of shellfish to the towns referred to in section 1 of this Act.

Hunting and
fishing.
Regulations.

The Secretary shall not interfere with navigation of waters within the boundaries of the Cape Cod National Seashore by such means and in such areas as is now customary.

Navigation.

SEC. 8. (a) There is hereby established a Cape Cod National Seashore Advisory Commission (hereinafter referred to as the "Commission"). Said Commission shall terminate ten years after the date the seashore is established under section 3 of this Act.

Cape Cod Na-
tional Seashore
Advisory Com-
mission.

(b) The Commission shall be composed of ten members each appointed for a term of two years by the Secretary as follows:

Membership.

(1) Six members to be appointed from recommendations made by each of the boards of selectmen of the towns referred to in the first section of this Act, one member from the recommendations made by each such board;

(2) One member to be appointed from recommendations of the county commissioners of Barnstable County, Commonwealth of Massachusetts;

(3) Two members to be appointed from recommendations of the Governor of the Commonwealth of Massachusetts; and

(4) One member to be designated by the Secretary.

(c) The Secretary shall designate one member to be Chairman. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(d) A member of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibilities under this Act upon vouchers signed by the Chairman.

Compensation.

Duties.

(e) The Commission established by this section shall act and advise by affirmative vote of a majority of the members thereof.

(f) The Secretary or his designee shall, from time to time, consult with the members of the Commission with respect to matters relating to the development of Cape Cod National Seashore and shall consult with the members with respect to carrying out the provisions of sections 4 and 5 of this Act.

(g) No permit for the commercial or industrial use of property located within the seashore shall be issued by the Secretary, nor shall any public use area for recreational activity be established by the Secretary within the seashore, without the advice of the Commission, if such advice is submitted within a reasonable time after it is sought.

Exemptions.

62 Stat. 697,
793.

(h) (1) Any member of the Advisory Commission appointed under this Act shall be exempted, with respect to such appointment, from the operation of sections 281, 283, 284, and 1914 of title 18 of the United States Code and section 190 of the Revised Statutes (5 U.S.C. 99) except as otherwise specified in subsection (2) of this section.

(2) The exemption granted by subsection (1) of this section shall not extend—

(i) to the receipt or payment of salary in connection with the appointee's Government service from any sources other than the private employer of the appointee at the time of his appointment; or

(ii) during the period of such appointment, and the further period of two years after the termination thereof, to the prosecution or participation in the prosecution, by any person so appointed, of any claim against the Government involving any matter concerning which the appointee had any responsibility arising out of his appointment during the period of such appointment.

Appropriation.

SEC. 9. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act; except that no more than \$16,000,000 shall be appropriated for the acquisition of land and waters and improvements thereon, and interests therein, and incidental costs relating thereto, in accordance with the provisions of this Act.

Separability.

SEC. 10. If any provision of this Act or the application of such provision to any person or circumstance is held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Approved August 7, 1961, 12:00 a. m.

ESTABLISHING THE CAPE COD NATIONAL SEASHORE, MASS.

JULY 3, 1961.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. RUTHERFORD, from the Committee on Interior and Insular
Affairs, submitted the following

R E P O R T

[To accompany H.R. 5786]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 5786) to provide for the establishment of Cape Cod National Seashore, having considered the same, report favorably thereon with an amendment and recommend that the bill do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) the area comprising that portion of the land and waters located in the towns of Provincetown, Truro, Wellfleet, Eastham, Orleans, and Chatham in the Commonwealth of Massachusetts, and described in subsection (b), is designated for establishment as Cape Cod National Seashore (hereinafter referred to as "the seashore").

(b) The area referred to in subsection (a) is described as follows:

Beginning at a point in the Atlantic Ocean one-quarter of a mile due west of the mean low-water line of the Atlantic Ocean on Cape Cod at the westernmost extremity of Race Point, Provincetown, Massachusetts;

thence from the point of beginning along a line a quarter of a mile offshore of and parallel to the mean low-water line of the Atlantic Ocean, Cape Code Bay, and Provincetown Harbor in generally southerly, easterly, and northerly directions rounding Long Point and then southwesterly to a point a quarter of a mile offshore of the mean low-water line on the harbor side of the dike depicted on the United States Geological Survey Provincetown quadrangle sheet (1949) crossing an arm of the Provincetown Harbor;

thence northerly, along a line a quarter of a mile offshore of and parallel to the low-water line at the dike to a point easterly of the point of intersection of the said dike with the boundary of the Province Lands Reservation as depicted on the said Provincetown quadrangle sheet;

thence westerly to the said point of intersection of the dike and the Province Lands Reservation boundary;

thence along the boundaries of the Province Lands Reservation northwesterly, northeasterly, northerly, and easterly to the easternmost corner of the reservation being near United States Route 6;

thence leaving the said easternmost corner along an extension of the southerly reservation boundary line easterly to the northerly right-of-way line of United States Route 6;

Thence along the northerly right-of-way line of United States Route 6 in a general easterly direction crossing the Truro-Provincetown line and continuing in the town of Truro in a generally southeasterly direction to a point four-tenths of a mile southeasterly of the southerly right-of-way line of Highland Road;

thence easterly five-tenths of a mile to a point;

thence turning and running in a southeasterly direction paralleling the general alinement of United States Route 6 and generally distant therefrom five-tenths of a mile to a point approximately 700 feet northwesterly of Long Nook Road;

thence southwesterly along a ridge generally paralleling the alinement of Long Nook Road and distant approximately 700 feet therefrom to a point two-tenths of a mile northeasterly of the northerly right-of-way line of United States Route 6;

thence southeasterly paralleling the general alinement of United States Route 6 and generally distant two-tenths of a mile northeasterly thereof to a point 300 feet south of the southerly right-of-way line of Higgins Hollow Road;

thence in a general easterly direction paralleling the southerly alinement of Higgins Hollow Road and 300 feet distant southerly therefrom to a point five-tenths of a mile east of the easterly right-of-way line of said Route 6;

thence turning and running in a southeasterly and southerly direction paralleling the general alinement of United States Route 6 and distant five-tenths of a mile easterly therefrom to a point 300 feet north of the northerly right-of-way line of North Pamet Road;

thence in a generally southwesterly direction paralleling the general alinement of North Pamet Road and generally distant 300 feet northerly therefrom to a point approximately two-tenths of a mile east of the easterly right-of-way line of United States Route 6;

thence in a southerly direction paralleling the alinement of United States Route 6 and generally distant two-tenths of a mile easterly therefrom to a point three-tenths of a mile south of South Pamet Road;

thence west to the intersection of Old County Road and Mill Pond Road;

thence following the easterly right-of-way line of Old County Road southward to a point opposite the southerly right-of-way line of Ryder Beach Road at its intersection with Old County Road;

thence eastward to a point 300 feet east of the easterly right-of-way line of said Old County Road;

thence in a southerly direction paralleling Old County Road at a distance of 300 feet to the east of the easterly right-of-way line of said road to a point 600 feet south of the southerly right-of-way line of Prince Valley Road;

thence in a generally westerly direction, crossing Old County Road and the New York, New Haven, and Hartford Railroad right-of-way to the southern extremity of the town landing and beach in the Ryder Beach area, and continuing to a point in Cape Cod Bay a quarter of a mile offshore from the mean low-water line of Cape Cod Bay;

thence turning and running along a line a quarter of a mile offshore of and parallel to the mean low-water line of Cape Cod Bay in a general southerly and easterly direction rounding Jeremy Point and thence in a general northerly direction along a line a quarter of a mile offshore of and parallel to the mean low-water line on the westerly side of Wellfleet Harbor, to a point one quarter of a mile due north of the mean low-water line at the eastern tip of Great Island as depicted on the United States Geological Survey Wellfleet quadrangle sheet (1958);

thence north to the mean high-water line on the north shore of the Herring River estuary in the vicinity of its confluence with Wellfleet Harbor;

thence following the mean high-water line southwesterly, northwesterly, and northeasterly to the easterly right-of-way line of Chequesset Neck Road at its crossing of Herring River;

thence following the course of Herring River along the 20-foot contour line of the southeasterly shore thereof to a point near Mill Creek;

thence crossing Mill Creek in a northeasterly direction to the 20-foot contour level near to and northeast of the confluence of Mill Creek and Herring River;

thence following generally northerly and easterly along the easterly edge of the Herring River marshes on the 20-foot contour to a point north of which the easterly right-of-way line of a medium duty road, as depicted on said Wellfleet quadrangle sheet, crosses northward across a marshy stream near the juncture of said medium duty road with Bound Brook Island Road; thence crossing said marshy stream along said easterly right-of-way line of said medium duty road, and continuing in a northerly direction to the 20-foot contour level on the north side of said marshy stream;

thence following the 20-foot contour line westward approximately 1,000 feet to its intersection with an unimproved dirt road, as depicted on said Wellfleet quadrangle sheet, leading from a point near the juncture of Bound Brook Island Road and the said medium duty road;

thence following said unimproved dirt road northwesterly for approximately 1,600 feet to the 20-foot contour line bordering the southerly edge of the Herring River marshes;

thence following said 20-foot contour line in an easterly direction to Route 6;

thence crossing Route 6 and continuing to a point on the easterly right-of-way line of a power transmission line as depicted on said Wellfleet quadrangle sheet;

thence in a general southerly direction along the easterly right-of-way line of said power transmission line to the northerly right-of-way line of Long Pond Road;

thence in a general easterly direction along the northerly right-of-way line of Long Pond Road to the line commonly known as the "Head of the Mile Lots" line, which line is approximately 3,200 feet westerly of the Atlantic Ocean;

thence southerly along the "head of the Mile Lots" line to the southerly right-of-way line to Cahoon Hollow Road;

thence in a general westerly direction along the southerly right-of-way line of Cahoon Hollow Road to the easterly right-of-way line of said power transmission line;

thence in a general southerly, easterly, southeasterly, and again southerly direction along the said easterly right-of-way line of a power transmission line to the Eastham-Wellfleet town line;

thence southeasterly for a distance of approximately 5,200 feet to a point due north of the intersection of the easterly right-of-way line of Nauset Road with the northerly right-of-way line of Cable Road;

thence due south to the intersection of the said easterly right-of-way line of Nauset Road and the said northerly right-of-way line of Cable Road;

thence in a general southerly direction crossing Cable Road and along said easterly right-of-way line of Nauset Road to a point 500 feet north of the northerly right-of-way line of Doane Road and its intersection with Nauset Road;

thence west to a point 500 feet west of the westerly right-of-way line of Nauset Road;

thence southerly and westerly 500 feet from and parallel to the said right-of-way line of Nauset Road to the easterly right-of-way line of Salt Pond Road;

thence southerly along the easterly right-of-way line of said Salt Pond Road to its intersection with the southerly right-of-way line of Nauset Road;

thence westerly along the southerly right-of-way line of Nauset Road to its intersection with the easterly right-of-way line of United States Route 6;

thence southerly along the easterly right-of-way line of said Route 6 a distance of about four-tenths of a mile to the northerly boundary of the Eastham town hall property;

thence easterly to a point one-tenth of a mile from United States Route 6;

thence turning and running in a generally southerly direction paralleling the general alinement of United States Route 6 and generally distant therefrom one-tenth of a mile to a small stream approximately one-tenth of a mile beyond Governor Prence Road extended;

thence southeasterly along the said stream to the Orleans-Eastham town line;

thence along the Orleans-Eastham town line to the southerly tip of Stony Island;

thence generally southeasterly in the town of Orleans by Nauset Harbor Channel to a point due north of the northerly tip of Nauset Heights as depicted on United States Geological Survey Orleans quadrangle sheet (1946);

thence due south to the 20-foot contour line in Nauset Heights as delineated on the said Orleans quadrangle sheet;

thence generally southerly along the said 20-foot contour to a point about one-tenth of a mile northerly of Beach Road;

thence southwesterly along a line intersecting Beach Road at a point two-tenths of a mile easterly of the so-called Nauset Road leading northerly to Nauset Heights;

thence southerly to the head of a tributary to Little Pleasant Bay at the northerly tip of Pochet Neck as depicted on the said Orleans quadrangle sheet;

thence generally southerly along the thread of channel of the said tributary passing westerly and southwesterly around Pochet Island and thence southwesterly into Little Pleasant Bay passing to westerly of the northerly tip of Sampson Island, the westerly tip of Money Head, and the southwesterly tip of Hog Island following in general the centerline of Little Pleasant Bay to Pleasant Bay;

thence generally southeasterly in Pleasant Bay along a line passing midway between Sipson Island and Nauset Beach to a point on the Chatham-Orleans town line one-quarter of a mile westerly of the mean low-water line of Pleasant Bay on the westerly shore of Nauset Beach;

thence generally southerly in Pleasant Bay in the town of Chatham along a line a quarter of a mile offshore of and parallel to the said mean low-water line of Pleasant Bay on the westerly shore of Nauset Beach to a point a quarter of a mile south of the mean low-water line of the southern tip of Nauset Beach;

thence easterly rounding the southern tip of Nauset Beach along a line a quarter of a mile offshore of and parallel thereto;

thence generally northerly and northwesterly, and westerly along a line a quarter of a mile offshore of and parallel to the mean low-water line of the Atlantic Ocean on the easterly shore of Nauset Beach and on to the outer cape to the point of beginning.

Notwithstanding the foregoing description of the Cape Cod National Seashore, there is excluded from said Seashore the area within the town of Wellfleet, being a portion of Griffin Island, which is bounded and described as follows:

Beginning at a point on the northerly side line of Duck Harbor Road distant 500 feet easterly from the mean high water line of Cape Cod Bay;

thence running easterly and southwesterly by the northerly and easterly right-of-way line of Duck Harbor Road to the northerly right-of-way line of Chequesset Neck Road;

thence northwesterly, westerly and southwesterly by the northerly right-of-way line of Chequesset Neck Road to a point distant 500 feet easterly from the mean high water line of Cape Cod Bay; and

thence northerly by a line 500 feet distant easterly from and parallel to the mean high water line of Cape Cod Bay to the point of beginning.

In event water access from Pleasant Bay and/or Nauset Harbor is closed from the ocean the Secretary shall take immediate action to provide an adequate passage from those inland waters to the Atlantic Ocean and maintain such opening thenceforth.

SEC. 2. (a) The Secretary of the Interior (hereinafter referred to as "Secretary") is authorized to acquire by purchase, gift, condemnation, transfer from any Federal agency, exchange, or otherwise, the land, waters, and other property, and improvements thereon and any interest therein, within the area which is described in section 1 of this Act or which lies within the boundaries of the seashore as described pursuant to section 3 of this Act (both together hereinafter in this Act referred to as "such area"). Any property, or interest therein, owned by the Commonwealth of Massachusetts, by any of the towns referred to in section 1 of this Act, or by any other political subdivision of said Commonwealth may be acquired only with the concurrence of such owner. Notwithstanding any other provision of law, any Federal property located within such area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the provisions of this Act.

(b) The Secretary is authorized (1) to use donated and appropriated funds in making acquisitions under this Act, and (2) to pay therefor not more than the fair market value of any acquisitions which he makes by purchase under this Act.

(c) In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property located within such area and convey to the grantor of such property any federally owned property under the jurisdiction

of the Secretary within such area. The properties so exchanged shall be approximately equal in fair market value: *Provided*, That the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize the values of the properties exchanged.

The Secretary shall report to the Congress on every exchange carried out under authority of this Act within thirty days from its consummation, and each such report shall include a statement of the fair market values of the properties involved and of any cash equalization payment made or received.

(d) As used in this Act the term "fair market value" shall mean the fair market value as determined by the Secretary, who may in his discretion base his determination on an independent appraisal obtained by him.

SEC. 3. (a) As soon as practicable after the date of enactment of this Act and following the acquisition by the Secretary of an acreage in the area described in section 1 of this Act that is in the opinion of the Secretary efficiently administrable to carry out the purposes of this Act, the Secretary shall establish Cape Cod National Seashore by the publication of notice thereof in the Federal Register.

(b) Such notice referred to in subsection (a) of this section shall contain a detailed description of the boundaries of the seashore which shall encompass an area as nearly as practicable identical to the area described in section 1 of this Act. The Secretary shall forthwith after the date of publication of such notice in the Federal Register (1) send a copy of such notice, together with a map showing such boundaries, by registered or certified mail to the Governor of the Commonwealth of Massachusetts and to the board of selectmen of each of the towns referred to in section 1 of this Act; (2) cause a copy of such notice and map to be published in one or more newspapers which circulate in each of such towns; and (3) cause a certified copy of such notice, a copy of such map, and a copy of this Act to be recorded at the registry of deeds for Barnstable County, Massachusetts.

SEC. 4. (a) (1) The beneficial owner or owners of improved property which the Secretary acquires by condemnation may elect, as a condition to such acquisition, to retain the right of use and occupancy of the said property for non-commercial residential purposes for a term of twenty-five years, or for such lesser time as the said owner or owners may elect at the time of such acquisition.

(2) The beneficial owner or owners, not being a corporation, of a freehold estate in improved property which property the Secretary acquires by condemnation, who held, on September 1, 1959, with respect to such property, an estate of the same nature and quality, may elect, as an alternative and not in addition to whatever right of election he or they might have under paragraph (1) of this subsection, to retain the right of use and occupancy of the said property for non-commercial residential purposes (i) for a term limited by the nature and quality of his or their said estate, if his or their said estate is a life estate or an estate pur autre vie, or (ii) for a term ending at the death of such owner or owners, or at the death of the survivor of them, if his or their said estate is an estate of fee simple.

(3) Where such property is held by a natural person or persons for his or their own life or lives or for the life or lives of another or others (such person or persons being hereinafter called "the life tenant"), with remainder in another or others, any right of election provided for in paragraph (2) of this subsection shall be exercised by the life tenant, and any right of election provided for in paragraph (1) of this subsection shall be exercised by the concurrence of the life tenant and the remainderman or remaindermen.

(4) The beneficial owner or owners of a term of years in improved property which the Secretary acquires by condemnation may elect, as a condition to such acquisition, to retain the right of use and occupancy of the said property for non-commercial residential purposes for a term not to exceed the remainder of his or their said term of years, or a term of twenty-five years, whichever shall be the lesser. The owner or owners of the freehold estate or estates in such property may, subject to the right provided for in the preceding sentence, exercise such right or rights of election as remain to them under paragraphs (1) and (2) of this subsection.

(5) No right of election accorded by paragraphs (1), (2), or (4) of this subsection shall be exercised to impair substantially the interests of holders of encumbrances, liens, assessments, or other charges upon or against the property.

(6) Any right or rights of use and occupancy retained pursuant to paragraphs (1), (2), and (4) of this subsection shall be held to run with the land, and may be freely transferred and assigned.

(7) In any case where a right of use and occupancy for life or for a fixed term of years is retained as provided in paragraph (1), (2), or (4) of this subsection, the compensation paid by the Secretary for the property shall not exceed the fair

market value of the property on the date of its acquisition by the Secretary, less the fair market value on such date of the said right retained.

(8) The Secretary shall have authority to terminate any right of use and occupancy of property, retained as provided in paragraph (1), (2), or (4) of this subsection, at any time after the date when any use occurs with respect to such property which fails to conform or is in any manner opposed to or inconsistent with any applicable standard contained in regulations issued pursuant to section 5 of this Act and in effect on said date: *Provided*, That no use which is in conformity with the provisions of a zoning bylaw approved in accordance with said section 5 which is in force and applicable to such property shall be held to fail to conform or be opposed to or inconsistent with any such standard. In the event that the Secretary exercises the authority conferred by this paragraph, he shall pay to the owner of the right so terminated an amount equal to the fair market value of the portion of said right which remained on the date of termination.

(b) (1) The Secretary's authority to acquire property by condemnation shall be suspended with respect to all improved property located within such area in all of the towns referred to in section 1 of this Act for one year following the date of its enactment.

(2) Thereafter such authority shall be suspended with respect to all improved property located within such area in any one of such towns during all times when such town shall have in force and applicable to such property a duly adopted, valid zoning bylaw approved by the Secretary in accordance with the provisions of section 5 of this Act.

(c) The Secretary's authority to acquire property by condemnation shall be suspended with respect to any particular property which is used for commercial or industrial purposes during any periods when such use is permitted by the Secretary and during the pendency of the first application for such permission made to the Secretary after the date of enactment of this Act provided such application is made not later than the date of establishment of the seashore.

(d) The term "improved property," wherever used in this Act, shall mean a detached, one-family dwelling the construction of which was begun before September 1, 1959 (hereinafter referred to as "dwelling"), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated. The amount of the land so designated shall in every case be at least three acres in area, or all of such lesser amount as may be held in the same ownership as the dwelling, and in making such designation the Secretary shall take into account the manner of noncommercial residential use in which the dwelling and land have customarily been enjoyed: *Provided, however*, That the Secretary may exclude from the land so designated any beach or waters, together with so much of the land adjoining such beach or waters as the Secretary may deem necessary for public access thereto.

(e) Nothing in this section or elsewhere in this Act shall be construed to prohibit the use of condemnation as a means of acquiring a clear and marketable title, free of any and all encumbrances.

SEC. 5. (a) As soon after the enactment of this Act as may be practicable, the Secretary shall issue regulations specifying standards for approval by him of zoning bylaws for purposes of section 4 of this Act. The Secretary may issue amended regulations specifying standards for approval by him of zoning bylaws whenever he shall consider such amended regulations to be desirable due to changed or unforeseen conditions.

All regulations and amended regulations proposed to be issued under authority of the two preceding sentences of this subsection shall be submitted to the Congress and to the towns named in section 1 of this Act at least ninety calendar days (which ninety days, however, shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) before they become effective and the Secretary shall, before promulgating any such proposed regulations or amended regulations in final form, take due account of any suggestions for their modification which he may receive during said ninety-day period. All such regulations and amended regulations shall, both in their proposed form and in their final form, be published in the Federal Register.

The Secretary shall approve any zoning bylaw and any amendment to any approved zoning bylaw submitted to him which conforms to the standards contained in the regulations in effect at the time of the adoption by the town of such bylaw or such amendment unless before the time of adoption he has submitted to

the Congress and the towns and published in the Federal Register as aforesaid proposed amended regulations with which the bylaw or amendment would not be in conformity, in which case he may withhold his approval pending completion of the review and final publication provided for in this subsection and shall thereafter approve the bylaw or amendment only if it is in conformity with the amended regulations in their final form. Such approval shall not be withdrawn or revoked, nor shall its effect be altered for purposes of section 4 of this Act by issuance of any such amended regulations after the date of such approval, so long as such bylaw or such amendment remains in effect as approved.

(b) The standards specified in such regulations and amended regulations for approval of any zoning bylaw or zoning bylaw amendment shall contribute to the effect of (1) prohibiting the commercial and industrial use, other than any commercial or industrial use which is permitted by the Secretary, of all property within the boundaries of the seashore which is situated within the town adopting such bylaw; and (2) promoting the preservation and development, in accordance with the purposes of this Act, of the area comprising the seashore, by means of acreage, frontage, and setback requirements and other provisions which may be required by such regulations to be included in a zoning bylaw consistent with the laws of Massachusetts.

(c) No zoning bylaw or amendment of a zoning bylaw shall be approved by the Secretary which (1) contains any provision which he may consider adverse to the preservation and development, in accordance with the purposes of this Act, of the area comprising the seashore, or (2) fails to have the effect of providing that the Secretary shall receive notice of any variance granted under and any exception made to the application of such bylaw or amendment.

(d) If any improved property with respect to which the Secretary's authority to acquire by condemnation has been suspended by reason of the adoption and approval, in accordance with the foregoing provisions of this section, of a zoning bylaw applicable to such property (hereinafter referred to as "such bylaw")—

(1) is made the subject of a variance under or an exception to such bylaw, which variance or exception fails to conform or is in any manner opposed to or inconsistent with any applicable standard contained in the regulations issued pursuant to this section and in effect at the time of the passage of such bylaw, or

(2) is property upon or with respect to which there occurs any use, commencing after the date of the publication by the Secretary of such regulations, which fails to conform or is in any manner opposed to or inconsistent with any applicable standard contained in such regulations (but no use which is in conformity with the provisions of such bylaw shall be held to fail to conform or be opposed to or inconsistent with any such standard), the Secretary may, at any time and in his discretion, terminate the suspension of his authority to acquire such improved property by condemnation: *Provided, however,* That the Secretary may agree with the owner or owners of such property to refrain from the exercise of the said authority during such time and upon such terms and conditions as the Secretary may deem to be in the best interests of the development and preservation of the seashore.

Sec. 6. The Secretary shall furnish to any party in interest requesting the same, a certificate indicating, with respect to any property located within the seashore as to which the Secretary's authority to acquire such property by condemnation has been suspended in accordance with the provisions of this Act, that such authority has been so suspended and the reasons therefor.

Sec. 7. (a) Except as otherwise provided in this Act, the property acquired by the Secretary under this Act shall be administered by the Secretary, subject to the provisions of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535), as amended and supplemented, and in accordance with laws of general application relating to the national park system as defined by the Act of August 8, 1953 (67 Stat. 496); except that authority otherwise available to the Secretary for the conservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of this Act.

(b)(1) In order that the seashore shall be permanently preserved in its present state, no development or plan for the convenience of visitors shall be undertaken therein which would be incompatible with the preservation of the unique flora and fauna or the physiographic conditions now prevailing or with the preservation of such historic sites and structures as the Secretary may designate: *Provided,* That the Secretary may provide for the public enjoyment and understanding of the unique natural, historic, and scientific features of Cape Cod within the seashore by establishing such trails, observation points, and exhibits and providing such

services as he may deem desirable for such public enjoyment and understanding: *Provided further*, That the Secretary may develop for appropriate public uses such portions of the seashore as he deems especially adaptable for camping, swimming, boating, sailing, hunting, fishing, the appreciation of historic sites and structures and natural features of Cape Cod, and other activities of similar nature.

(2) In developing the seashore the Secretary shall provide public use areas in such places and manner as he determines will not diminish for its owners or occupants the value or enjoyment of any improved property located within the seashore.

(c) The Secretary may permit hunting and fishing, including shellfishing, on lands and waters under his jurisdiction within the seashore in such areas and under such regulations as he may prescribe during open seasons prescribed by applicable law. The Secretary shall consult with officials of the Commonwealth of Massachusetts and any political subdivision thereof who have jurisdiction of hunting and fishing, including shellfishing, prior to the issuance of any such regulations, and the Secretary is authorized to enter into cooperative arrangements with such officials regarding such hunting and fishing, including shellfishing, as he may deem desirable, except that the Secretary shall leave all aspects of the propagation and taking of shellfish to the towns referred to in section 1 of this Act.

The Secretary shall not interfere with navigation of waters within the boundaries of the Cape Cod National Seashore by such means and in such areas as is now customary.

SEC. 8. (a) There is hereby established a Cape Cod National Seashore Advisory Commission (hereinafter referred to as the Commission).

(b) The Commission shall be composed of ten members each appointed for a term of two years by the Secretary as follows:

(1) Six members to be appointed from recommendations made by each of the boards of selectmen of the towns referred to in the first section of this Act, one member from the recommendations made by each such board;

(2) One member to be appointed from recommendations of the county commissioners of Barnstable County, Commonwealth of Massachusetts;

(3) Two members to be appointed from recommendations of the Governor of the Commonwealth of Massachusetts; and

(4) One member to be designated by the Secretary.

(c) The Secretary shall designate one member to be Chairman. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(d) A member of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibilities under this Act upon vouchers signed by the Chairman.

(e) The Commission established by this section shall act and advise by affirmative vote of a majority of the members thereof.

(f) The Secretary or his designee shall, from time to time, consult with the members of the Commission with respect to matters relating to the development of Cape Cod National Seashore, and shall consult with the members with respect to carrying out the provisions of sections 4 and 5 of this Act.

(g) No permit for the commercial or industrial use of property located within the seashore shall be issued by the Secretary, nor shall any public use area for recreational activity be established by the Secretary within the seashore, without the advice of the Commission, if such advice is submitted within a reasonable time after it is sought.

(h) (1) Any member of the Advisory Commission appointed under this Act shall be exempted, with respect to such appointment, from the operation of sections 281, 283, 284, and 1914 of title 18 of the United States Code and section 190 of the Revised Statutes (5 U.S.C. 99) except as otherwise specified in subsection (2) of this section.

(2) The exemption granted by subsection (1) of this section shall not extend—

(i) to the receipt or payment of salary in connection with the appointee's Government service from any sources other than the private employer of the appointee at the time of his appointment; or,

(ii) during the period of such appointment, and the further period of two years after the termination thereof, to the prosecution or participation in the prosecution, by any person so appointed, of any claim against the Government involving any matter concerning which the appointee had any responsibility arising out of his appointment during the period of such appointment.

SEC. 9. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act; except that no more than \$16,000,000 shall

be appropriated for the acquisition of land and waters and improvements thereon, and interests therein, and incidental costs relating thereto, in accordance with the provisions of this Act.

Sec. 10. If any provision of this Act or the application of such provision to any person or circumstance is held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Strike out all of the preamble.

The purpose of H.R. 5786 is to provide for the creation and administration of a national seashore at Cape Cod, Mass., as a unit of the national park system. As amended by the committee, the seashore's boundaries will embrace about 25,700 acres of land in the towns of Provincetown, Truro, Wellfleet, Eastham, Orleans, and Chatham, all on the northern neck of Cape Cod. The estimated cost for the acquisition of land within the boundaries of the seashore is \$16 million.

H.R. 5786 was introduced by Congressman Keith. Other 87th Congress bills on the same subject are H.R. 66 (Boland), H.R. 711 (Lane), H.R. 989 (Keith), H.R. 4686 (Morse), H.R. 5083 (Conte), H.R. 5920 (Boland), and H.R. 5980 (Lane).

The present bills and their 86th Congress predecessors have been the subject of three hearings by the committee: June 21, 1960, in Washington; December 16 and 17, 1960, in Eastham, Mass.; and March 6, 7, and 8, 1961, in Washington. In addition inspections of the area were made by committee members in December 1960 and May 1961. The committee's recommendation that H.R. 5786, as amended, be enacted is thus backed up by firsthand acquaintance with the area and by detailed consideration of the problems involved in the bill which were presented to it by numerous witnesses. It is also backed up by formal studies of the history, archeology, biology, geology, and economics of the area presented to it by the National Park Service.

HISTORY OF THE PROPOSAL

Proposals to establish a unit of the national park system on Cape Cod date back to the 1930's when it was included in an overall review by the National Park Service of potential national seashores. A more intensive study of such seashores along the Atlantic and gulf coasts was conducted some 5 or 6 years ago and it was then found that Cape Cod was one of the very few sizable seashore areas between Maine and Mexico that had not already been developed or was not then undergoing development.

This study was followed by the preparation in 1958 of a Cape Cod field investigation report by the National Park Service with detailed information on the proposed park and by the introduction of bills during the 85th Congress by Representatives Boland, O'Neill, and Philbin to establish such a park. Further bills were introduced during the 86th Congress by Representatives Boland, Burke of Massachusetts, Conte, Keith, Lane, O'Neill, Philbin, and Thompson of New Jersey and in the 87th Congress as indicated above.

While the major outlines of the seashore boundaries have remained constant from that time to this, there have been many variations with respect to individual areas proposed for inclusion or exclusion. The overall acreages included at various stages in the history of the pro-

posals—stated, in every case, to the nearest 25 acres for the sake of convenience—may be summarized thus:

	Original (1958) ¹	Revised (1960) ²	H.R. 989, ³ 87th Cong.	H.R. 5786, as introduced	87th Cong., as reported
Provincetown.....	5,025	4,950	4,950	4,950	4,950
Truro.....	9,875	9,875	9,175	8,900	9,150
Wellfleet.....	7,850	7,850	7,275	5,400	6,700
Eastham.....	3,275	3,475	3,125	2,675	2,875
Orleans.....	1,600	1,600	1,500	1,600	1,600
Chatham ⁴	1,000	750	700	450	450
Total.....	28,625	28,500	26,725	23,375	25,725

¹Source: National Park Service, "Cape Cod—A Proposed National Seashore Field Investigation Report," p. 19.

²Source: Economic Development Associates, Inc., "An Economic Study Relating to the Proposed Cape Cod National Seashore Park," p. 48.

³Ibid., pp. 48, 49.

⁴Exclusive, in all cases, of Monomoy Island.

DESCRIPTION OF THE AREA

The greatest single natural feature of the proposed national seashore is an unbroken sweep of 40 miles of coastline along the Atlantic Ocean. This is one of the few lengthy coastal areas in the United States that is still virtually in a state of nature and it is the longest on the Atlantic coast north of Cape Hatteras. It was along the Atlantic side of this coast between what are now Wellfleet and Eastham that the Pilgrims caught their first sight of land on November 9, 1620. Governor Bradford tells the story thus:

But to omit other things (that I may be brief) after long beating at sea they fell with that land which is called Cape Cod; the which being made and certainly known to be it, they were not a little joyful. After some deliberation had amongst themselves and with the master of the ship, they tacked about and resolved to stand for the southward (the wind and weather being fair) to find some place about Hudson's River for their habitation. But after they had sailed that course for about half a day, they fell amongst dangerous shoals and roaring breakers [to the east of Monomoy Island], and they were so far entangled therewith as they conceived themselves in great danger; and the wind shrinking upon them withal, they resolved to beat up again for the Cape and thought themselves happy to get out of those dangers before night overtook them, as by God's good providence they did. And the next day they got into the Cape Harbor [now Provincetown Harbor] where they rid in safety.

* * * * *

Being thus arrived in a good harbor, and brought safe to land, they fell upon their knees, and blessed the God of Heaven who had brought them over the vast and furious ocean, and delivered them from all the perils and miseries thereof, again to set their feet on the firm and stable earth, their proper element. * * *

* * * Being thus passed the vast ocean * * * they had now no friends to welcome them nor inns to maintain or refresh their weatherbeaten bodies; no houses or much less

towns to repair to, to seek for succour. * * * And for the season it was winter, and they that know the winters of that country know them to be sharp and violent, and subject to cruel and fierce storms, dangerous to travel to known places, much more to search an unknown coast. Besides, what could they see but a hideous and desolate wilderness, full of wild beasts and wild men—and what multitudes there might be of them they knew not. Neither could they * * * have * * * solace or content in respect of any outward objects. For summer being done, all things stand upon them with a weatherbeaten face, and the whole country, full of woods and thickets, represented a wild and savage hue.

The 3,650 acres of "Province lands" at the very tip of the cape are near the site whose winter aspect Governor Bradford described as "weatherbeaten" and as having a "wild and savage hue." These lands are another important feature to be included in the national seashore. They have been held by the Commonwealth of Massachusetts in a wild state for years and will, the committee understands, be donated to the United States for inclusion in the national seashore along with an adjacent 1,130 acres of land which the State is acquiring. Thoreau's vivid description of these lands, obviously seen at an earlier season of the year than that in which Bradford encountered them, is still valid:

From the first high sand-hill, covered with beach-grass and bushes to its top, on the edge of the desert, we overlooked the shrubby hill and swamp country which surrounds Provincetown on the north, and protects it, in some measure, from the invading sand. Notwithstanding the universal barrenness, and the contiguity of the desert, I never saw an autumnal landscape so beautifully painted as this was. It was like the richest rug imaginable spread over an uneven surface; no damask nor velvet, nor the work of any loom, could ever match it. There was the incredibly bright red of the Huckleberry, and the reddish brown of the Bayberry, mingled with the bright and living green of small Pitch-Pines, and also the duller green of the Bayberry, Boxberry, and Plum, the yellowish green of the Shrub-Oaks, and the various golden and yellow and fawn-colored tints of the Birch and Maple and Aspen,—each making its own figure, and in the midst, the few yellow sandslides on the sides of the hills looked like the white floor seen through rents in the rug.

The national seashore includes, of course, not only these lands but others as well to fulfill its conservation function. One of the most important is the broad sweep from the Pamet River in the eastern part of Truro the whole way across the cape to Boundbrook Island on the west. Another is a beautiful area in eastern Wellfleet that includes Gull Pond, Higgins Pond, and a number of other smaller bodies; another the 160-acre tract that furnishes an outstanding vista point overlooking Salt Pond Bay and the Nauset marshes; another the 15 miles of shore along Cape Cod Bay which will not only conserve but also make available for recreation a generally protected shore. Still another is the great stretch of land from south of the Wellfleet-

Eastham town line to the vicinity of Great Pond on the north of which Thoreau wrote:

This sand-bank—the backbone of the Cape—rose directly from the beach to the height of a hundred feet or more above the ocean. * * * On our right, beneath us, was the beach of smooth and gently-sloping sand, a dozen rods in width; next, the endless series of white breakers; further still, the light green water over the bar, which runs the whole length of the fore-arm of the Cape, and beyond this stretched the unwearied and illimitable ocean. On our left, extending back from the very edge of the bank, was a perfect desert of shining sand, from thirty to eighty rods in width, skirted in the distance by small sand-hills fifteen or twenty feet high * * *. Next commenced the region of vegetation,—a succession of small hills and valleys covered with shrubbery, now glowing with the brightest imaginable autumnal tints; and beyond this were seen, here and there, the waters of the bay. Here, in Wellfleet, this pure sand plateau * * * stretched away northward from the southern boundary of the town, without a particle of vegetation * * * for two and a half or three miles, as far as the eye could see; slightly rising toward the ocean, then stooping to the beach, by as steep a slope as sand could lie on, and as regular as a military engineer could desire. It was like the escarped rampart of a stupendous fortress, whose glacis was the beach, and whose champaign the ocean. From its surface we overlooked the greater part of the Cape. In short, we were traversing a desert, with the view of an autumnal landscape of extraordinary brilliance, a sort of Promised Land, on the one hand, and the ocean on the other. Yet, though the prospect was so extensive, and the country for the most part destitute of trees, a house was rarely visible—we never saw one from the beach,—and the solitude was that of the ocean and the desert combined. A thousand men could not have seriously interrupted it, but would have been lost in the vastness of the scenery as their footsteps in the sand.

There are other areas that many would like to have included within the boundaries of the seashore—the Great Pond-Long Pond complex, for instance, or the whole of Griffin Island instead of merely a narrow strip along the bay, or Morris Island—but respect for the needs of the towns concerned for growing room persuaded to the contrary.

Suffice it to say that there was not, among the nine members of the committee who visited the area on the one or the other of its two field trips or among other members who had already been there, any dissent from the view that the area will be a worthy addition to the national park system. These members included representatives from Alaska, Oregon, California, Idaho, Colorado, Iowa, and Texas. Among them, they represented a wide variety of experience in seeing the beauties of America. They, and other members of the committee, recognize the vast difference between Cape Cod and, for instance, Everglades National Park or Yellowstone or Big Bend or Mount McKinley or even Cape Hatteras. It is these very differences that make the preservation of Cape Cod under the Nation's auspices for all Americans a worthwhile undertaking. Whatever their differences

of opinion with respect to details of the National Park Service's plan, they were agreed that Cape Cod is a beautiful area—a uniquely beautiful area—which is worth preserving as a part of the American heritage.

USE OF THE AREA

That the Cape Cod National Seashore will become a highly popular addition to the national park system goes without saying. The cost of its establishment, the committee is convinced, will be more than repaid by the pleasure of those who will enjoy it now and in future generations. Lying as it does within an easy day's drive for nearly 25 million of our population, the danger is greater that the national seashore will be overused than that it will be underused. The area already has a summer population twice as great as its year-around population and it has been estimated that this will double in 15 years even without the establishment of a national seashore. To put it another way, 1,500,000 visitor-days are already being spent on Cape Cod. Unless experience elsewhere in the national park system proves a completely false guide, these are likely to increase substantially.

Were the purpose of the bill merely that of establishing on Cape Cod another Atlantic seaboard recreation area, there would be no need for the Federal Government to step into the picture. But that, of course, is not the intent of the committee. Recreation there will be, since Cape Cod—park or no park—cannot be put in a cellophane wrapper. But the major emphasis of the bill is, and the major emphasis of the National Park Service in administering the seashore must be, on conserving the values which now make Cape Cod so attractive to so many people and which are in such great danger of being lost—its scenery, its historical associations, its reminders of an older and quieter way of life than most of us now enjoy, its wildlife and flora, and its homes dating from periods that are long since gone. The committee invites attention to section 7(b)(1) of the bill as evidence of its hope that this will be so and it recommends strongly that the Secretary of the Interior use all powers at his command to prevent any such indiscriminate use of the seashore as might seriously depreciate the very values which it is being created to preserve. It also recommends that he take especial care with certain fragile areas within the national seashore and that, if necessary, he limit access to such areas to such numbers of persons as the areas can tolerate without inviting their destruction.

LAND OWNERSHIP AND LOCAL COOPERATION

As has been pointed out above, H.R. 5786, as amended, provides for the inclusion of about 25,700 acres within the boundaries of the Cape Cod National Seashore. These 25,700 acres constitute 10 percent of the whole of Cape Cod. In several of the towns immediately affected, however, the percentage runs considerably higher than this. In Truro, for instance, it amounts to nearly 70 percent of the area of the town, in Wellfleet to about 50 percent, and in Eastham to 31 percent. (In Provincetown, where the proportion of the town to be included is larger than in any of the foregoing, all the lands in question are, or will shortly become, State owned.) Despite these figures, there will be sufficient room outside the seashore boundaries for expansion of the towns' populations. It is estimated that in

Truro, Wellfleet, and Eastham over 8,500 acres of undeveloped but developable land will remain outside the boundaries. This, assuming 3 acres per home, will allow room for 2,800 new homes or enough, with the homes that are already there, to support a population three and a half times as large as it now is.

The ownership of the lands to be included within the seashore is, in round figures, as follows:

	<i>Acres</i>
Federal.....	2, 750
State.....	7, 000
Other public.....	1, 050
Private.....	14, 900

Provision is made in the bill for turning over the federally owned lands, most of which are now administered by the Department of Defense, to the Department of the Interior for seashore use as they become surplus to existing needs. Likewise, as has already been pointed out, it is expected that the State lands will be made available by donation. The remainder of the lands—those owned by local governments and by individuals—will be acquired through purchase, donation, exchange, or condemnation.

Most of the lands in private ownership are undeveloped. In order, however, to avoid any fear that enactment of the bill will lead to a sudden disruption of community and family life through the taking of such developed property as is included within the boundaries of the seashore, several safeguards have been written into the bill:

(1) The power of condemnation is completely suspended for 1 year after enactment of the bill with respect to any "improved property"—i.e., any detached one-family dwelling the construction of which was begun before September 1, 1959, and the land on which it is situated.

(2) The power of condemnation is likewise suspended with respect to such property as long as there is applicable to it a valid zoning bylaw which meets standards approved by the Secretary of the Interior.

(3) The owner of any such property which, for any reason, becomes subject to condemnation may elect to retain a right of use and occupancy either for his lifetime or for 25 years and may, during this period, transfer and assign his right of use and occupancy to others. Needless to say, property which is acquired by donation, purchase, or exchange may, in the discretion of the Secretary of the Interior, be acquired subject to similar rights even though this is not spelled out in the bill and there is nothing to prohibit the Secretary from agreeing to similar conditions if it becomes necessary to acquire by condemnation property which is not protected by the provisions outlined above.

Although the committee's experience is that inholdings in national parks are generally undesirable, it believes that the provisions just outlined are wise under the circumstances. It recognizes that, in creating the Cape Cod National Seashore, the Government will, probably for the first time, be carving a large public conservation and recreation facility out of lands the bulk of which are in private ownership. This factor by itself serves to distinguish the Cape Cod proposal from most of those with which the committee has heretofore dealt in the national park field. It points out, also, that the provisions mentioned are so drawn that they offer no protection to commercial developments within the seashore and that they will encourage cooperation between the local governing bodies and the

National Park Service in the development of zoning standards that will protect not only the local residents but also the public at large.

(A tentative draft of such standards proposed by the National Park Service and presented to the committee is appended to this report for the information of the House.)

In order to encourage such cooperation in other forms, the bill also provides for the establishment of a permanent 10-man Cape Cod National Seashore Advisory Commission. Nine of the members of the Commission will be appointed by the Secretary of the Interior from among persons recommended by the Governor of Massachusetts, the county commissioners of Barnstable County, and the selectmen of the six towns directly involved with the seashore. The 10th member will be the Secretary's own nominee. Although the powers of the commission will be advisory only, its existence will, it is believed, make for an understanding approach to problems as they develop which might otherwise be lost.

LOCAL VIEWS

It is the Congress, of course, that must decide whether a project such as the Cape Cod National Seashore shall be undertaken and, if so, what its boundaries shall be. The committee is nevertheless always interested in knowing what the sentiment of the people immediately affected is in order that it may take that feeling into account.

In this instance, the project is strongly supported by the Commonwealth of Massachusetts as represented by its legislature, its present Governor, his predecessor, and its department of natural resources. It also has the support of a substantial majority of the citizens of the towns immediately affected taken as a group and not as separate political entities.

The witnesses appearing before the committee were so sharply divided that it would have been difficult for the committee, if it had had to judge from their statements alone, where the bulk of local feeling lies. Fortunately, just about the time of its last hearings on this measure, five of the six towns concerned held their annual town meetings, and voted, in one form or another, on the seashore proposition. Though the questions were apparently put in such different forms that the votes in the various towns cannot be directly compared with each other, the results afford as good a sampling of the situation as is available and confirm the belief that local sentiment is predominantly in favor of a national seashore in one form or another. Slightly over 71 percent of the votes appear to have been in favor of its establishment and slightly under 29 percent against. The data on which this conclusion is based can be found in the printed hearings of the Senate Committee on Interior and Insular Affairs on S. 857, a companion bill.

COST

H.R. 5786 carries with it an authorization for appropriation totaling \$16 million for real property acquisition. There was considerable controversy among witnesses as to the adequacy of this amount. The committee realizes that not all of the 25,700 acres of land within the boundaries of the seashore will be acquired at one time and that on Cape Cod, as elsewhere, real estate acquisition costs may be expected to increase in the future. It realizes, on the other hand, that there

will be savings in money outlay to the extent that private owners avail themselves of the opportunity to retain a life or 25-year interest in their properties when they sell them to the Government or when they are condemned. These and other factors, added to the contrariety of various witnesses' views and the usual problem of securing completely reliable estimates of the value of a large area held in many ownerships, have given the committee more than the usual difficulties.

The committee believes, however, that \$16 million is a reasonably adequate estimate assuming that the properties that need to be acquired are acquired within the next few years. It is fortified in this view by a study of the data presented by Economic Development Associates, Inc., in its report on the proposed seashore which has been heretofore mentioned. The data include figures on the acreage then proposed to be acquired, the 1959 assessed value of that acreage and improvements, and the percentage which this assessed value is to fair market value as presented in an official publication of the Commonwealth of Massachusetts. It can be concluded from these data that the probable acquisition cost of the private lands which were then proposed to be included in the seashore—somewhat larger than the area covered by H.R. 5786, as amended—was \$10,624,000. To this, of course, must be added 2 years' increase in values, estimated at 10 percent per year, and the cost of any town-owned lands that have to be purchased. The total is a figure not far from the \$16 million figure of the bill.

COMMITTEE AMENDMENT

The committee's amendment is presented in the form of a substitute for the entire text of the bill as introduced. In substance, its chief differences from the original bill are these:

(1) It revises the boundaries of the national seashore to include certain lands which were in the National Park Service proposal but were omitted by the bill as introduced—notably, the Highland Road, Little Pamet, and Pamet areas in the town of Truro (substituting for them two enlarged strips of land along U.S. Route 6); the Bound Brook area, small parts of the Griffin Island and Great Pond areas, the Gull Pond area, and the LeCount Hollow area in Wellfleet; the Salt Pond Bay area in Eastham; and certain offshore lands in Chatham. (Contrariwise, both the original bill and the revised measure omit some areas which the National Park Service at one time or another recommended be included—South Truro-Ryder Beach in Truro; the bulk of Griffin Island, Chequesset, Herring River, and the bulk of the Great Pond-Long Pond complex in Wellfleet; two areas in the northern part of Eastham; and Morris, Stage, and Monomoy Islands in Chatham.)

(2) It omits a provision of the original bill which authorized the Secretary of the Interior to incur obligations in advance of appropriations.

(3) It requires reports to be made to the Congress on exchange transactions consummated under its authority.

(4) It provides for submission of all proposed regulations of the Secretary of the Interior pertaining to zoning standards to the Congress and to the towns concerned for their examination and for any comment they care to make at least 90 days before they become effective.

(5) It omits the provisions of the original bill for payments in lieu of taxes.

(6) It strengthens certain provisions of the original bill having to do with hunting and fishing and safeguards customary uses of water areas within the boundaries of the seashore for navigation.

SECTION-BY-SECTION ANALYSIS

Section 1 of the revised bill describes the boundaries of the Cape Cod National Seashore. It also requires the Secretary of the Interior to take such action as may be required to maintain a passage between Pleasant Bay and/or Nauset Harbor and the Atlantic Ocean.

Section 2 provides authority for the acquisition of real property within the boundaries of the seashore, including transfers from other Federal agencies to the Department of the Interior. It forbids acquisition of property owned by Massachusetts or any of its political subdivisions without the consent of the owner, authorizes the use of donated funds, provides for exchanges of properties with approximately the same fair market value and for equalization in cash of the difference, if any, in the values, and requires all such exchanges to be reported to the Congress.

Section 3 provides for public notice of the actual establishment of the national seashore when sufficient acreage has been acquired to make this administratively feasible. It also provides for the publication and registration of an exact land description of the area within the seashore.

Section 4 sets limits on the authority of the Secretary to condemn private property used for residential purposes. Subsection (a) describes the rights of owners and tenants of such property to retain the use and occupancy thereof for their lives or for 25 years as they may elect, provided their property conforms to applicable zoning standards, and assures them a power to assign and transfer the retained interest. Subsection (b) is a blanket suspension of the Secretary's power of condemnation of such property for 1 year after enactment of the bill and a permanent suspension of this power as long as the property is subject to valid zoning bylaws approved by the Secretary. Subsection (c) deals with the subject of condemnation of commercial and industrial property and places certain limitations on it. Subsection (d) defines the term "improved property," which is frequently used in the bill, as "a detached one-family dwelling the construction of which was begun before September 1, 1959 * * * together with so much of the land on which the dwelling is situated * * * as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling" but in no case be less than 3 acres unless the tract on which the dwelling is situated is, at the time, smaller than this. The September 1, 1959, cutoff date reflects the approximate time at which active public consideration of the national seashore proposal began and will assist in safeguarding against increased costs arising from recent and later activity in the seashore area.

Section 5 sets general standards for the Secretary's regulations with respect to zoning and requires the transmission of these regulations to the Congress and to the towns concerned for comment at least 90 days before they become effective. It requires that they be such as

to prohibit or limit commercial and industrial uses of property within the boundaries of the seashore and promote the preservation and development of this area. This section likewise removes the bar to condemnation outlined above in the event property is used contrary to the standards for zoning set out in the Secretary's regulations.

Section 6 provides for a secretarial certificate to parties in interest with respect to property which is not subject to condemnation.

Section 7 makes applicable to the Cape Cod National Seashore the general laws which are applicable to units of the national park system. Its subsection (b) contains a prohibition against developments within the seashore area which are "incompatible with the preservation of the unique flora and fauna or the physiographic conditions now prevailing or with the preservation of such historic sites and structures as the Secretary may designate," an affirmative authorization for works and services which will contribute to the "public enjoyment and understanding" of those aspects of the seashore, and a further authorization to develop recreational potentialities which do not interfere with the primary purpose of the seashore. The same subsection includes another provision intended to protect those who continue to dwell within the seashore area against the establishment of public use areas which would unreasonably impair the value or enjoyment of their property. Subsection (c) deals with hunting and fishing within the seashore area. It makes it clear that the Secretary may permit such activities if he chooses to do so but, without impairing his authority to set stricter limits than are provided by general law, requires that these activities conform to applicable local, State, and National law. It further requires that all shellfishing activities be left to regulation by the towns concerned under the general laws of the Commonwealth of Massachusetts. Finally, it safeguards such navigation of the waters included within the seashore area as is now customary.

Section 8 establishes the Cape Cod National Seashore Advisory Commission. The 10 members of the Commission will be appointed by the Secretary of the Interior for 2-year terms—1 from each of the 6 towns involved chosen from nominees of their boards of selectmen acting separately; 1 from Barnstable County chosen from nominees of the county commissioners; 2 from the Commonwealth of Massachusetts chosen from nominees of the Governor; and 1 chosen by the Secretary himself. The members of the Advisory Commission will receive no compensation, but the Secretary is authorized to pay their reasonable expenses. Subsection (f) of this section requires the Secretary to consult with the Advisory Commission generally on matters relating to the development of the national seashore and specifically on such matters as standards for zoning bylaws and other problems arising out of sections 4 and 5 of the bill. Subsection (g) requires that he seek the advice of the Advisory Commission before issuing permits for industrial or commercial use of property within the seashore area or establishing public recreational areas there. Subsection (h) deals with various conflict-of-interest statutes as they may affect members of the Advisory Commission.

Section 9 authorizes the appropriation of funds to carry out the rest of the bill, but limits the amount to be appropriated for acquisition of real property and for expenses incidental thereto to \$16 million.

Section 10 is a standard severability provision.

DEPARTMENTAL RECOMMENDATIONS

This bill is a successor bill to H.R. 989 and contains all the recommended amendments in the reports of the Department of the Interior, dated March 4 and May 12, 1961, respectively, with the exception of boundary description amendments and others concerning administration of fish and wildlife refuges. The reports follow:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., March 4, 1961.

HON. WAYNE N. ASPINALL,
*Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.*

DEAR MR. ASPINALL: Your committee has requested a report on H.R. 66, H.R. 711, and H.R. 989, identical bills to provide for the establishment of Cape Cod National Seashore Park.

We recommend most strongly early enactment of any one of the bills if amended as suggested in this report; however, reference hereafter is made to only H.R. 989 to facilitate discussion of our recommendations and suggested amendments.

The Department feels that little time remains to save a representative and significant portion of Cape Cod for the enjoyment of future generations. Unless action is taken in the near or immediate future to acquire and preserve lands at Cape Cod for public enjoyment, it seems quite evident that the cape's traditional atmosphere and character will vanish under construction activity now underway there.

Section 1 of the bill designates certain lands and waters, together with improvements, as the Cape Cod National Seashore Park; section 2 authorizes the Secretary of the Interior to acquire the lands, waters, and improvements by purchase, gift, condemnation, transfer from any Federal agency, exchange, or otherwise. Section 2 also gives the Secretary the legal power to obligate authorized funds in the property acquisition process.

In the bill there are conditions under which the lands may be acquired and restrictions on the condemnation process. State- and town-owned lands may be acquired only with the concurrence of the State and town. The owners of "improved property" (a private noncommercial dwelling, including the land on which it is situated, whose construction was begun before September 1, 1959) may elect to retain their property for their use and occupancy for a term not to exceed 25 years. The bill suspends, for 1 year, the Secretary's authority to condemn improved property; thereafter, condemnation authority is suspended with respect to improved property during the time that a valid town zoning bylaw is in force. Moreover, the Secretary's power to condemn commercial property is suspended while application to the Secretary for continuation of a commercial use is pending.

Section 8 of the bill deals with payments in lieu of taxes. It provides compensation to the towns for their losses resulting from the Secretary's acquisition of fee simple absolute title to privately owned real estate and improvements. If this section is enacted, compensation to tax losses would be paid for that fraction of the calendar year in which the Secretary acquired the land plus an additional 2 full

calendar years thereafter. Payments in lieu of taxes would not be made on property acquired by the Secretary after December 31 of the 25th year following the date of enactment of the bill.

Cape Cod, which is not only the most extensive natural seashore area in New England but also one of the finest on the North Atlantic coast, represents perhaps the last opportunity this Nation will have to save a seashore of national significance north of Cape Hatteras. Five years ago the National Park Service made a survey of the Atlantic and gulf coasts. It found that almost every attractive seashore area had been, or was being, preempted for private development; only a fraction of our long seacoast was left for public use, and much of this was rapidly vanishing.

The outer arm of Cape Cod, close to the Nation's most densely populated region, however, is still largely in a natural state. The outstanding natural beauty, scientific interest, and historical significance of this peninsula give it national significance as a park resource, but its park values are being jeopardized by the rapid development of cape lands. The evidences of continental glaciation that helped to form Cape Cod and the evidences of erosion and deposition along cape shores provide important opportunities for geologic study. The plants and wildlife that mingle on Cape Cod in unusual variety give the area outstanding biological significance.

Moreover, Cape Cod has been a landmark of history since the days of the Vikings and was a center of the famed fishing and whaling industry. The Cape Cod house in the proposed national seashore, built before 1850, of which there are some 65, is in itself a landmark in American domestic architecture. All these features—geologic, biologic, historic—combine to give Cape Cod a scenic beauty which has lent the cape communities that unique charm enjoyed for a century by increasing numbers of visitors.

Cape Cod National Seashore Park as proposed, after years of study, would protect outstanding examples of these features from the tide of development engulfing the natural scenes along so much of America's seashore. Included in the proposed area is all of the cape's 30-mile-long Great Beach, with its commanding headlands, 8 square miles of some of the most spectacular sand dunes on the Atlantic seaboard, and stretches of scenic heathland, forest, and marsh. In its central portion, the proposed reservation stretches across the peninsula to include a representative portion of the Cape Cod Bay shore and the major area of secluded fresh water ponds. Besides, Monomoy National Wildlife Refuge would be included in the park but administered so as not to conflict with refuge management; nearby Morris and Stage Islands, where major developments are prohibited, would be included and administered as a nature sanctuary if our suggested amendments are adopted.

In total, the Cape Cod National Seashore Park proposed in H.R. 989, with out amendments, includes, within boundaries believed to be sufficient for proper conservation and public use, outstanding examples of the principal features which compose that unity of natural and historical values characterizing Cape Cod. So constituted, the preserve would be a nationally significant park resource for the enjoyment of the people of the United States, and still protect the amenities that the people of Cape Cod have so long enjoyed.

The bill would establish "Cape Cod National Seashore Park." This nomenclature would constitute a new designation in the national

park system. In the interest of uniformity we prefer the name "Cape Cod National Seashore." Accordingly, we suggest the following amendments to the bill:

1. Delete the word "Park" from all references to the term "Cape Cod National Seashore Park".

2. Substitute the word "seashore" wherever the word "park" appears.

We do not recommend enactment of section 8 of the bill which authorizes payment in lieu of taxes. We doubt the desirability of enacting such legislation in piecemeal fashion. It is our judgment that this most important problem should be considered in general legislation rather than on a piecemeal basis.

Subsection 2(b) deals with the important problem of authorizing the Secretary to enter into contracts for the acquisition of lands before funds are appropriated. While the Department sees obvious advantages in having available to it contract authorization for this purpose, such a provision permits a binding commitment of the Federal Government prior to consideration in an appropriation act. The pros and cons of such a provision are still under consideration within the executive branch. We will advise you of our recommendations shortly.

Our suggested amendment in regard to boundary description would reduce the seashore area from approximately 31,206 acres to about 29,688 acres.

It is our judgment that such matters as the persons affected by this bill and the manner in which they must comply with the law to retain their rights of use and occupancy should be detailed.

To accomplish what we have discussed in the three preceding paragraphs and to make certain perfecting amendments, we suggest the following amendments:

1. Strike out the description in subsection 1(b) of the bill and substitute the description contained in subsection 1(b) of S. 857 of the 87th Congress.

2. On page 10, line 12, change the figure "11" to "9".

3. On page 11, line 19, strike out the words "not less than a total of six thousand acres of" and substitute the words "an acreage of".

4. Strike out sections 4, 5, and 6 of the bill and substitute the following new sections 4 and 5:

"SEC. 4. (a)(1) The beneficial owner or owners of improved property which the Secretary acquires by condemnation may elect, as a condition to such acquisition, to retain the right of use and occupancy of the said property for noncommercial residential purposes for a term of twenty-five years, or for such lesser time as the said owner or owners may elect at the time of such acquisition.

"(2) The beneficial owner or owners, not being a corporation, of a freehold estate in improved property which property the Secretary acquires by condemnation, who held, on September 1, 1959, with respect to such property, an estate of the same nature and quality, may elect, as an alternative and not in addition to whatever right of election he or they might have under paragraph (1) of this subsection, to retain the right of use and occupancy of the said property for noncommercial residential purposes (i) for a term limited by the nature and quality of his or their said estate, if his or their said estate is a life estate or an estate pur autre vie, or (ii) for a term ending at the

death of such owner or owners, or at the death of the survivor of them, if his or their said estate is an estate of fee simple.

"(3) Where such property is held by a natural person or persons for his or their own life or lives or for the life or lives of another or others (such person or persons being hereinafter called 'the life tenant'), with remainder in another or others, any right of election provided for in paragraph (2) of this subsection shall be exercised by the life tenant, and any right of election provided for in paragraph (1) of this subsection shall be exercised by the concurrence of the life tenant and the remainderman or remaindermen.

"(4) The beneficial owner or owners of a term of years in improved property which the Secretary acquires by condemnation may elect, as a condition to such acquisition, to retain the right of use and occupancy of the said property for noncommercial residential purposes for a term not to exceed the remainder of his or their said term of years, or a term of twenty-five years, whichever shall be the lesser. The owner or owners of the freehold estate or estates in such property may, subject to the right provided for in the preceding sentence, exercise such right or rights of election as remain to them under paragraphs (1) and (2) of this subsection.

"(5) No right of election accorded by paragraphs (1), (2), or (4) of this subsection shall be exercised to impair substantially the interests of holders of encumbrances, liens, assessments, or other charges upon or against the property.

"(6) Any right or rights of use and occupancy retained pursuant to paragraphs (1), (2), and (4) of this subsection shall be held to run with the land, and may be freely transferred and assigned.

"(7) In any case where a right of use and occupancy for life or for a fixed term of years is retained as provided in paragraphs (1), (2), or (4) of this subsection, the compensation paid by the Secretary for the property shall not exceed the fair market value of the property on the date of its acquisition by the Secretary, less the fair market value on such date of the said right retained.

"(8) The Secretary shall have authority to terminate any right of use and occupancy of property, retained as provided in paragraphs (1), (2), or (4) of this subsection, at any time after the date when any use occurs with respect to such property which fails to conform or is in any manner opposed to or inconsistent with any applicable standard contained in regulations issued pursuant to section 5 of this Act and in effect on said date: *Provided*, That no use which is in conformity with the provisions of a zoning bylaw approved in accordance with said section 5 which is in force and applicable to such property shall be held to fail to conform or be opposed to or inconsistent with any such standard. In the event that the Secretary exercises the authority conferred by this paragraph, he shall pay to the owner of the right so terminated an amount equal to the fair market value of the portion of said right which remained on the date of termination.

"(b)(1) The Secretary's authority to acquire property by condemnation shall be suspended with respect to all improved property located within such area in all of the towns referred to in section 1 of this Act for one year following the date of its enactment.

"(2) Thereafter such authority shall be suspended with respect to all improved property located within such area in any one of such towns during all times when such town shall have in force and appli-

cable to such property a duly adopted, valid zoning bylaw approved by the Secretary in accordance with the provisions of section 5 of this Act.

“(c) The Secretary’s authority to acquire property by condemnation shall be suspended with respect to any particular property which is used for commercial or industrial purposes during any periods when such use is permitted by the Secretary and during the pendency of the first application for such permission made to the Secretary after the date of enactment of this Act provided such application is made not later than the date of establishment of the seashore.

“(d) The term ‘improved property’, wherever used in this Act, shall mean a detached, one-family dwelling the construction of which was begun before September 1, 1959 (hereinafter referred to as ‘dwelling’), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated. The amount of the land so designated shall in every case be at least three acres in area, or all of such lesser amount as may be held in the same ownership as the dwelling, and in making such designation the Secretary shall take into account the manner of noncommercial residential use in which the dwelling and land have customarily been enjoyed: *Provided, however,* That the Secretary may exclude from the land so designated any beach or waters, together with so much of the land adjoining such beach or waters as the Secretary may deem necessary for public access thereto.

“SEC. 5. (a) As soon after the enactment of this Act as may be practicable, the Secretary shall issue regulations specifying standards for approval by him of zoning bylaws for purposes of section 4 of this Act. The Secretary may issue amended regulations specifying standards for approval by him of zoning bylaws whenever he shall consider such amended regulations to be desirable due to changed or unforeseen conditions. The Secretary shall approve any zoning bylaw and any amendment to any approved zoning bylaw submitted to him which conforms to the standards contained in the regulations in effect at the time of the adoption by the town of such bylaw or such amendment. Such approval shall not be withdrawn or revoked, nor shall its effect be altered for purposes of section 4 of this Act by issuance of any such amended regulations after the date of such approval, so long as such bylaw or such amendment remains in effect as approved.

“(b) The standards specified in such regulations and amended regulations for approval of any zoning bylaw or zoning bylaw amendment shall contribute to the effect of (1) prohibiting the commercial and industrial use, other than any commercial or industrial use which is permitted by the Secretary, of all property within the boundaries of the seashore which is situated within the town adopting such bylaw; and (2) promoting the preservation and development, in accordance with the purposes of this Act, of the area comprising the seashore, by means of acreage, frontage, and setback requirements and other provisions which may be required by such regulations to be included in a zoning bylaw consistent with the laws of Massachusetts.

"(c) No zoning bylaw or amendment of a zoning bylaw shall be approved by the Secretary which (1) contains any provision which he may consider adverse to the preservation and development, in accordance with the purposes of this Act, of the area comprising the seashore, or (2) fails to have the effect of providing that the Secretary shall receive notice of any variance granted under and any exception made to the application of such bylaw or amendment.

"(d) If any improved property with respect to which the Secretary's authority to acquire by condemnation has been suspended by reason of the adoption and approval, in accordance with the foregoing provisions of this section, of a zoning bylaw applicable to such property (hereinafter referred to as 'such bylaw')—

"(1) is made the subject of a variance under or an exception to such bylaw, which variance or exception fails to conform or is in any manner opposed to or inconsistent with any applicable standard contained in the regulations issued pursuant to this section and in effect at the time of the passage of such bylaw, or

"(2) upon or with respect to which there occurs any use, commencing after the date of the publication by the Secretary of such regulations, which fails to conform or is in any manner opposed to or inconsistent with any applicable standard contained in such regulations (but no use which is in conformity with the provisions of such bylaw shall be held to fail to conform or be opposed to or inconsistent with any such standard),

the Secretary may, at any time and in his discretion, terminate the suspension of his authority to acquire such improved property by condemnation: *Provided, however,* That the Secretary may agree with the owner or owners of such property to refrain from the exercise of the said authority during such time and upon such terms and conditions as the Secretary may deem to be in the best interests of the development and preservation of the seashore."

5. On page 17, line 10, change the "7" to "6".

6. Delete section 8 of the bill.

7. On page 19, line 9, change the "9" to "7".

8. On page 20, strike out lines 16 to 25, inclusive, and substitute the following words: "(c) Notwithstanding any other provision of this Act, land and waters now or hereafter included in any migratory bird refuge within the boundaries of the park shall continue as such refuge under applicable laws and regulations, but such lands and water shall be a part of the seashore and shall be administered by the Secretary for public uses not inconsistent with the purposes of such refuge under such rules and regulations as the Secretary may prescribe. Nothing in this Act shall limit the power of the Secretary to acquire lands and waters for any migratory bird refuge. Notwithstanding any other provision of this Act, Morris and Stage Islands shall be administered as a sanctuary in which the flora and fauna shall be preserved and where camping and other such major activities and developments for the accommodation of visitors shall be prohibited."

9. On page 21, line 14, change the "10" to "8".

10. On page 23, line 1, change the "11" to "9"; on line 3, strike out the figure "\$15,000,000" and substitute the figure "\$16,000,000"; and on line 20, change the "12" to "10".

The estimated cost of acquiring the lands for Cape Cod National Seashore is \$16 million. The man-years and cost data statement, required by the act of July 25, 1956, when annual expenditure of appropriated funds exceeds \$1 million, is enclosed.

The Bureau of the Budget advises that in his special message of February 23, 1961, on natural resources the President urged the enactment of legislation leading to the establishment of seashore and shoreline areas such as Cape Cod, Padre Island, and Point Reyes for the use and enjoyment of the public. Therefore, enactment of legislation to achieve this objective at Cape Cod would be in accord with the program of the President.

Sincerely yours,

STEWART L. UDALL,
Secretary of the Interior.

DEPARTMENT OF THE INTERIOR

Subject matter: H.R. 989, a bill to provide for the establishment of Cape Code National Seashore Park

ESTIMATED ADDITIONAL MAN-YEARS OF CIVILIAN EMPLOYMENT

	19CY	19CY+1	19CY+2	19CY+3	19CY+4
Executive direction:					
Acquisition project manager.....	0.5	1.0	1.0	1.0	1.0
Assistant acquisition project manager.....	.5	1.0	1.0	1.0	1.0
Administrative assistant.....	1.0	1.5	2.0	3.0	1.0
Stenographic and clerical.....	1.0	1.5	2.0	3.0	2.0
Superintendent.....		1.0	1.0	1.0	1.0
Assistant superintendent.....				1.0	1.0
Total, executive direction.....	3.0	6.0	7.0	10.0	7.0
Administrative services:					
Clerical.....	1.0	2.0	3.0	3.0	3.0
Administrative aid.....		1.0	1.0	1.0	1.0
Total, administrative services.....	1.0	3.0	4.0	4.0	4.0
Substantive:					
Chief ranger.....			1.0	1.0	1.0
Ranger.....	.5	2.0	2.0	3.0	8.0
Life guards.....		5.0	8.0	10.0	10.0
Laborers and craftsmen.....		3.0	4.0	4.0	6.0
Engineer.....	.5	1.0	1.0	1.0	1.0
Architect.....	.5	1.0	1.0	1.0	1.0
Landscape architect.....	.5	1.0	1.0	1.0	1.0
Appraisers.....	1.0	2.0	2.0	2.0	
Stenographic.....	.5	2.0	2.0	2.0	1.0
Total, substantive.....	3.5	17.0	22.0	25.0	29.0
Total, estimated additional man-years of civilian employment.....	7.5	26.0	33.0	39.0	40.0

ESTIMATED ADDITIONAL EXPENDITURES

	\$35,000	\$110,000	\$150,000	\$175,000	\$200,000
Personal services.....	\$35,000	\$110,000	\$150,000	\$175,000	\$200,000
All other.....	1,000,000	2,000,000	3,500,000	5,000,000	6,500,000
Total, estimated additional expenditures.....	1,035,000	2,110,000	3,650,000	5,175,000	6,700,000
Estimated obligations:					
Land and property acquisition.....	2,500,000	2,500,000	3,000,000	4,000,000	4,000,000
Development.....	250,000	500,000	1,000,000	1,500,000	1,350,000
Operations (management, protection and maintenance).....	125,000	175,000	250,000	300,000	350,000
Total, estimated obligations.....	2,875,000	3,175,000	4,250,000	5,800,000	5,700,000

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 12, 1961.

HON. WAYNE N. ASPINALL,
*Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.*

DEAR MR. ASPINALL: This supplements our report dated March 4, 1961, on H.R. 66, H.R. 711, and H.R. 989, identical bills to provide for the establishment of Cape Cod National Seashore Park. In the report we stated that we would advise your committee in regard to our recommendations on subsection 2(b), which deals with contract authority.

We recognize that contract authority would be useful in several ways. This Department is in a race with subdividers for a rapidly diminishing natural resource at Cape Cod. If contract authority were available, the Department could enter into purchase agreements for land that is most likely to be developed or otherwise appreciate in value. This would enable us to acquire the lands in the Cape Cod National Seashore at the lowest possible price. Without contract authority the Department may be forced to buy at increasing costs as appropriations are made over a period of years.

Contract authority would also permit the Department to deal with any willing seller, and avoid the criticism that sometimes arises when limited funds permit the acquisition of one piece of property but not the property of a neighbor who is equally eager to sell.

The bills place considerable reliance upon zoning for the achievement of park values. If a town fails to adopt zoning bylaws, or a property owner fails to comply with adopted zoning bylaws, contract authority would permit the Department to act quickly for the purpose of preserving the parklike setting.

In the case of property that is in the process of development, contract authority would permit the Department to purchase at the existing stage of construction. Without contract authority and with land acquisition funds exhausted, the Department might stand by helplessly and watch the owner improve property we know the Federal Government will purchase when funds become available.

We realize that some of the foregoing advantages might be achieved in alternative ways, and that contract authority is a departure from the normal budgetary and appropriation process in that it removes some of the controls ordinarily exercised by Congress.

Under the circumstances, the inclusion or omission of subsection 2(b) is, we believe, a matter for congressional decision.

The Bureau of the Budget has advised that there is no objection to the presentation of this supplemental report from the standpoint of the administration's program.

Sincerely yours,

STEWART L. UDALL,
Secretary of the Interior.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs recommends the enactment of H.R. 5786, as amended.

APPENDIX

TENTATIVE ZONING STANDARDS FOR THE PROPOSED CAPE COD NATIONAL SEASHORE

Legislation which has been proposed would exempt from condemnation certain residential property within the seashore which meets local zoning standards approved by the Secretary. Based upon facts available to us at this time, we believe, and would so recommend to the Secretary, that general standards of approval should be predicated upon criteria which take into consideration the following:

The proposed legislation stipulates that the standards specified in such regulations and amended regulations for approval of any zoning bylaw or zoning bylaw amendment shall contribute to the effect of prohibiting the commercial and industrial use, other than any commercial or industrial use which is permitted by the Secretary, of all property within the boundaries of the park which is situated within the town adopting such bylaw. Otherwise they shall promote the preservation and development, in accordance with the purposes of this act, of the area comprising the park, consistent with the laws of Massachusetts.

Accordingly, there should be no commercial zones within the proposed national seashore. Such commercial ventures within the authorized boundaries as the Secretary might find to be consistent with the purposes of the national seashore would be issued permits, as authorized by the legislation.

There should be designated two general types of land use or zones in the seashore, to be known as a seashore zone and a seashore historical zone.

Seashore zone.—Improved residential property begun before September 1, 1959, and hence exempt from condemnation if zoning standards are adhered to, should be maintained as detached one-family residential dwellings and their character as residences not impaired. No moving of buildings, repairs, alterations, or enlargements of the dwelling or appurtenant structures should be made which would give them less than a 50-foot setback from all streets measured at a right angle with the street line, and 25 feet from the abutters' property lines, or less than such setbacks as already exist for the dwelling or appurtenant structures. No changes in lot sizes should result in reduction of lot frontage to less than 150 feet.

The filling or clearing of land and cutting of timber, or the removal of topsoil, sand or gravel, boulders larger than 18 inches in diameter, or stone walls on all private property should not be permitted within the framework of an approved zoning ordinance without first securing a certificate of appropriateness from the National Park Service.

In addition to occupancy as a one-family private residence, permitted uses in the seashore zone could include use of rooms in a dwelling as a professional office by residents of the dwelling; the exist-

ence of such appurtenant structures as a garage, barn, and boathouse as accessory uses for the principal resident of the premises; display of a sign, which may be indirectly but not directly illuminated, and not to exceed 2 square feet in area, referring to the occupancy or to the sale or rental of the premises; continuation of traditional agricultural uses on previously cleared and clear land, or on land cleared with National Park Service approval but not including such objectionable uses as a piggery or the raising of livestock or poultry for commercial purposes.

In addition, such uses as are traditional to these communities of private homes could be permitted to continue. These could include the opening of shellfish, storage of fishing equipment, and such home occupations as the making and selling of traditional Cape Cod products produced on the premises, and the renting of rooms and serving of meals by residents of the premises so long as these activities do not alter the essential character of the dwelling as a private residence. Such uses would not include public restaurant facilities.

Seashore historical zone.—All regulations and permitted uses applicable to the seashore zone should also apply to the seashore historical zone.

In addition, the exterior of buildings within the seashore historical zone and such other structures as the Secretary of the Interior may designate as of historical or architectural significance should not be altered, repaired, removed, or changed in color without first securing a certificate of appropriateness from the National Park Service.

ADDITIONAL VIEWS

The Cape Cod area has more than scenery and pure historic interest. Much of its charm and appeal stems from the delightful towns and the character of the residents.

Adequate preservation of the towns as thriving communities, and appropriate consideration of the citizens' rights and necessities, demand that special attention be given to boundaries of the contemplated seashore. Such consideration has been provided in the legislation presented to the House. Alteration of these proposed boundaries to enlarge the proposed park would be unrealistic and would definitely work a hardship on citizens of the cape.

Particular reference should be made to Morris Island. It is our view that to include this small territory would actually detract from the seashore, would be far too expensive, and would, we believe, destroy the value and the planned character of the town of Chatham which is definitely one of the most beautiful towns in the entire world.

Attention should also be drawn to the fact that this legislation represents a relatively new concept, in that the proposed seashore would be created almost entirely on land now privately owned. For this reason, and many others, the legislation should be thoroughly and carefully considered.

JOHN KYL.
EDWIN R. DURNOW.



67.3.1

THE LIBRARY OF CONGRESS

WASHINGTON, D. C. 20540

LEGISLATIVE REFERENCE SERVICE

CAPE COD

Selected Bibliographic References (monographs)

- Blake, Frances. The Dolphin guide to Cape Cod, Martha's Vineyard and Nantucket. Garden City, N.Y., Dolphin Books, 1964. 188 p.
- Cape Cod information guide and directory. Centerville, Mass., Scrimshaw Press, 1965. 80 p.
- Corbett, Scott. Cape Cod's way, an informal history. New York, Crowell, 1955. 310 p.
- Cusack, Betty Bugbee. Collector's luck; a thousand years at Lewis Bay, Cape Cod. [1st ed. Stoneham, Mass.] G. R. Barnstead Print. Co., 1967. 238 p.
- Freeman, Frederick. The history of Cape Cod; the annals of Barnstable County and of its several towns, including the district of Mashpee. Yarmouth Port, Mass., Parnassus Imprints, 1965. 2 v.
- Fritze, Hattie Blossom. Horse and buggy days on old Cape Cod. Barnstable, Mass., Great Marshes Press, 1966. 197 p.
- Giambarba, Paul. Cape Cod seashore life. Centerville, Mass., Scrimshaw Pub., 1966. 80 p.
- The picture story of Cape Cod, from Iyanough to John F. Kennedy. Centerville, Mass., Scrimshaw Press, 1965. 63 p.
- Hannau, Hans W. Cape Cod. [Munich, W. Andermann]; distributed by Doubleday, Garden City, N.Y., 1967. 60 p.
- Hay, John. The great beach. Illustrated by David Grose. [1st ed.] Garden City, N.Y., Doubleday, 1963. 131 p.
- Knowles, Katharine. Cape Cod journey. Barre, Mass., Barre Publishers, 1966. 93 p.
- Leighton, Clare Veronica Hope. Where land meets sea; the tide line of Cape Cod. New York, Rinehart, 1954. 202 p.

LRS-2

Mitchell, Edwin Valentine. It's an old Cape Cod custom. New York,
Vanguard Press, 1949. 242 p.

Thoreau, Henry David. Cape Cod. Decorated by Clare Leighton. New York,
Crowell, 1961. 319 p.

----- Guide to Cape Cod; based on Cape Cod. New York, Devin-Adair Co.,
1962. 148 p.

Ruddie A. Irizarry
Natural Resources Division
February 19, 1968



THE LIBRARY OF CONGRESS

WASHINGTON, D. C. 20540

6.3.3

LEGISLATIVE REFERENCE SERVICE

CAPE COD NATIONAL SEASHORE

Selected Bibliographic References
(periodicals)

- Callison, C. At last a new national seashore! Audubon Magazine, 63:268, September 1961.
- Cape Cod Seashore established. Living Wilderness, 77:39, Summer 1961.
- Cape Cod seashore legislation introduced. American Forests, 65:46+, October 1959.
- Carter, L. A. Last call for a Cape Cod seashore. National Parks Magazine, 35:4-7, May 1961.
- Cavaliere, R. and F. Woolner. Cape Cod stripers; with colored reproductions. Field and Stream, 67:40-5, June 1962.
- Chamberlain, Barbara Blau. Cape Cod. Natural History, 76:24-33, May 1967.
- Hay, J. Walk on the Great beach. Sports Illustrated, 15:60-4+, September 11, 1961.
- Kindleberger, B. Cape Cod, National seashore or national eyesore? American Forests, 65:34-5+, May 1959.
- Koehler, C. R. Cape Cod's Marconi station. National Parks Magazine, 39:18, September 1965.
- Cape Cod seashore's white cedar swamp. National Parks Magazine, 40:11, December 1966.
- National Parks shouldn't be set up by decree. Saturday Evening Post, 232:10, July 18, 1959.
- Pusey, Merlo J. That future generations may know the pounding surf. Washington Post, May 29, 1966: E-4.
- Smith, A. W. Success at Cape Cod. National Parks Magazine, 35:2, November 1961.

Sutton, H. Our Native shores. McCalls, 89:134+, August 1962.

United States. House. Committee of Interior and Insular Affairs.
Establishing the Cape Cod national seashore, Mass.: report. July 3, 1961 (to accompany H.R. 5786). 1961, 29 p., tables (87th Cong., 1st sess., H. rept. no. 673).

United States. House. Committee on Interior and Insular Affairs.
Subcommittee on Public Lands. Cape Cod national seashore park: hearings. December 16-17, 1960, Eastham, Mass., consideration of various proposals for the establishment of the Cape Cod national seashore park in the Commonwealth of Massachusetts. 1961 v + 232 p. table (86th Cong., 2nd sess.).

United States. Senate. Committee on Interior and Insular Affairs.
Providing for the establishment of Cape Cod national seashore park: report, June 20, 1961 (to accompany S. 857). (1961) 30 p. tables (87th Cong., 1st sess., S. rept. no. 428) (Calendar no. 402).

United States. Senate. Committee on Interior and Insular Affairs.
Subcommittee on Public Lands. Cape Cod national seashore park: hearings, March 9, 1961, on S. 857, to provide for the establishment of Cape Cod national seashore park. 1961 v + 144 p maps (87th Cong., 1st sess.).

Wharton, D. They're saving Americas priceless seashore. Readers Digest, 89:181, August 1966.

What kind of a park? American Forests, 66:19+, April 1960.

Ruddie A. Irizarry
Natural Resources Division
February 19, 1968

UNITED STATES
DEPARTMENT OF THE INTERIOR
Washington

Federal Register
- Code 1 1832

5.4.1

CODE OF FEDERAL REGULATIONS
TITLE 36--PARKS, FORESTS, AND MONUMENTS
Part 27--Cape Cod National Seashore;
Regulations Specifying Standards for Zoning Bylaws
Chapter I--National Park Service, Department of the Interior

By notice of a proposed rule making published on March 9, 1962 (27 F.R. 2289-2290), the public was notified of the proposal to amend Title 36, Code of Federal Regulations, by the addition of a new part specifying general criteria or standards that will facilitate adoption of zoning bylaws by the towns in which the Cape Cod National Seashore is located, and will assure that such bylaws meet the approval of the Secretary of the Interior. Such notice was given pursuant to Section 5 of the Act of August 7, 1951 (75 Stat. 284, 290), providing for establishment of a Cape Cod National Seashore, which Act exempts from condemnation improved residential property upon which construction was begun before September 1, 1959, if duly adopted valid zoning bylaws approved by the Secretary of the Interior are in force and applicable to such properties.

The proposed regulations were submitted to the Congress and to the towns in which the Cape Cod National Seashore is situated in



order to give members of Congress and the towns an opportunity to submit written data, views, or suggestions on such regulations. The waiting period prescribed in the Act of August 7, 1961, has elapsed. Written suggestions and comments on the proposed regulations were received from several of the affected towns; but none was received from the Congress. Informal suggestions were also offered in meetings held at the Cape which were attended by representatives of the towns having land within the Seashore. All other persons were invited to present written statements to the Director, National Park Service, Department of the Interior, Washington 25, D. C., within 30 days after the notice was published in the Federal Register.

Discussions of the proposed regulations were held with the Departments of Commerce and of the Attorney General of the Commonwealth of Massachusetts. Those offices have important review and advisory functions with respect to the zoning bylaw amendments the affected towns will adopt to implement the final regulations. Moreover, the regulations, prior to issuance in final form, were presented before, and discussed with, the Cape Cod Advisory Commission. The suggestions which evolved from the discussions with representatives of those Departments and the Commission have been carefully considered, with a view to promulgation of a regulation that will further the

purposes of the Act of August 7, 1961, and be consistent with the laws of Massachusetts.

As a result of the aforesaid meetings and discussions and consideration of other relevant material presented subsequent to the notice, the following changes in the proposed regulations are made:

1. The provisions relating to establishment of a Seashore Historical Zone have been eliminated, the effect being that a single new zone would be established--the Seashore District. This change was necessitated because of a relatively recent Massachusetts Act which governs the establishment of historic districts. It was the consensus that any action initiated by the towns toward the establishment of such districts should adhere to the procedural and other requirements set out in the Massachusetts Historic Districts Act.

2. The final draft of the regulations clarifies the rights of zoning authorities and owners of "improved property" (as defined in the Act of August 7, 1961), within the Seashore District to consult the Secretary of the Interior for determinations as to the effect of any proposed alteration, variance, or exception, upon suspension of the Secretary's power to condemn the property affected by such alteration, variance, or exception.

These and other minor revisions are reflected in regulations as set forth below in final form. Since the affected towns cannot initiate action to adopt zoning bylaw amendments as required by the Act of August 7, 1961, until approval of these regulations is certain, such regulations shall become effective upon the date of their publication in the Federal Register.

Part 27, reading as follows, is added to 36 CFR

Part 27, Cape Cod National Seashore; Zoning Standards

END.

- 27.1 General Objectives
- 27.2 Commercial and Industrial Activities
- 27.3 Seashore District
- 27.4 Variances and Exceptions

AUTHORITY: § 5 27.1 to 27.4 issued under § 5, 75 Stat. 284

16 U.S.C., Sup. III, 459-b-4.

§ 27.1 General Objectives

(a) Consistent with the objectives set out in Section 5 of the Act of August 7, 1961 (75 Stat. 284), development and management of the Cape Cod National Seashore will be conducted in a manner which will secure the widest possible public use, understanding and enjoyment of its natural, cultural and scientific features. These regulations are designed and promulgated to establish minimum standards which local zoning bylaws must meet in furtherance of those purposes.

(b) The standards hereby established for approval of zoning bylaws or amendments of zoning bylaws are intended: (1) to contribute to the effect of prohibiting the commercial and industrial use, other than existing commercial or industrial use not inconsistent with the purposes of the Act of August 7, 1961 (75 Stat. 284, 291), of all property within the boundaries of the Cape Cod National Seashore and situated in the towns of Provincetown, Truro, Wellfleet, Eastham, Orleans and Chatham; and (2) to promote preservation and development, in accordance with the purposes of the said Act, of the area comprising the seashore, by means of acreage, frontage and setback requirements and other provisions which may be required to be included in zoning bylaws consistent with the laws of Massachusetts. Zoning bylaws or amendments of zoning bylaws applicable to the area within Cape Cod National Seashore, in order that they may be approved, shall conform to the standards herein set forth relating to preservation and development of the seashore in accordance with the purposes of the said Act. The Secretary shall be given notice of any amendments to approved zoning bylaws that affect the Seashore District. Nothing in these standards or in the zoning bylaws adopted pursuant thereto for the area within Cape Cod National Seashore shall preclude the Secretary of the Interior from fulfilling the responsibilities vested in him by the Act of August 7, 1961, or by the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented.

5-4-6

(c) Wherever the term "improved property" is used in these regulations it shall mean a detached, one-family dwelling, the land on which it is situated, and accessory structures, and as further defined in Section 4 (d) of the Act of August 7, 1961 (75 Stat. 284).

§ 27.2 Commercial and Industrial Activities

No commercial or industrial districts may be established within the Cape Cod National Seashore.

§ 27.3 Seashore District

(a) Description

The Seashore District shall include all those portions of the towns of Provincetown, Truro, Wellfleet, Eastham, Orleans and Chatham, lying within the exterior boundaries of the Cape Cod National Seashore.

(b) Zoning bylaws for the Seashore District shall be consistent with the objectives and purposes of the Act of August 7, 1961, so that--to the extent possible under Massachusetts law--the scenic, scientific and cultural values of the area will be protected, undeveloped areas will be preserved in a natural condition, and the distinctive Cape Cod character of existing residential structures will be maintained.

(c) No moving, alteration, or enlargement of existing one-family residential dwellings or structures accessory thereto situated within this District shall be permitted if such would afford less than a 50-foot setback from all streets measured at a right angle with the street line, and a 25-foot distance from the abutters' property lines (or less than such lesser setback or distance requirements already in existence for such dwellings or accessory structures).

If through natural phenomena or causes a lot or lots are so diminished in size that an owner would be unable to comply with the setback or sideline requirements herein prescribed, such owner or the zoning authorities may, as provided in Section 27.4 (b) of these regulations, request the Secretary of the Interior to determine whether a proposed move, reconstruction, alteration or enlargement of an existing residential dwelling or accessory structure would subject the property to acquisition by condemnation.

(d) Zoning bylaws adopted pursuant to this regulation shall contain provisions designed to preserve the seashore character of the area by appropriate restrictions or prohibitions upon the burning of cover, cutting of timber, filling of land, removal of soil, loam, sand or gravel and dumping, storage, or piling of refuse and other unsightly objects or other uses which would detract from the natural or traditional seashore scene.

(c) Zoning bylaws for the Seashore District may permit residential uses of "improved property" and other uses of such dwellings and their accessory structures: Provided, such other uses are traditional to these seashore communities, are customarily incidental to the principal residential use and do not alter the essential character of the dwelling and premises as a private residence. Subject to those conditions such uses may include, but are not limited to: (1) partial use of dwellings by residents for a professional office (as for the practice of theology, law or medicine), as an artists' studio, for appropriate small scale home occupations as the making and selling of traditional Cape Cod products produced on the premises, and for the rental of rooms and serving of meals by residents of the premises to overnight guests; (2) the existence of structures, such as a garage, barn or boathouse accessory to the dwelling; (3) display of a sign, which may be indirectly but not directly illuminated and not to exceed two square feet in area, referring to the occupancy, sale, or rental of the premises; (4) traditional agricultural uses of cleared land, but not including such objectionable uses as a piggery or the raising of livestock, poultry or fur-bearing animals for commercial purposes; and (5) the opening of shellfish, the storage and use of fishing equipment, and other traditional fishing activities. No commercial or industrial ventures (other than of the types described above), may be established within the Seashore District.

§ 27.4 Variances and Exceptions

(a) Zoning bylaws may provide for variances and exceptions.

(b) Bylaws adopted pursuant to these standards shall contain provisions which constitute notice to applicants for variances and exceptions that, under Section 5 (d) of the Act of August 7, 1961, the Secretary of the Interior is authorized to withdraw the suspension of his authority to acquire, by condemnation, "improved property" that is made the subject of a variance or exception which, in his opinion, fails to conform or is in any manner opposed to or inconsistent with preservation and development of the seashore as contemplated in the said Act. The Secretary may be consulted at any time by zoning authorities or by the owner of "improved property" regarding the effect of a proposed variance or exception upon the status of the affected property with regard to the suspension of the Secretary's authority to condemn. The Secretary, within 60 days of the receipt of a request for such determination, or as soon thereafter as is reasonably possible, shall advise the owner or zoning authorities whether or not the intended use will subject the property to acquisition by condemnation.

(c) The Secretary shall be promptly notified of the granting of any variance or exception.

Stewart L. Udall

Secretary of the Interior

July 9, 1962

Copy to: Secy's Central Files
Secy's Reading File
Division of Information
National Park Service
Regional Director, Region Five (2)
Mr. Harrison
Lands
Park Planning
Mr. Thompson
Mr. Buschman

Published in Federal Register of July 14 at page 6714



UNITED STATES
DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE
Cape Cod National Seashore
South Wellfleet, Massachusetts 02663

5.5.1

IN REPLY REFER TO:

CERTIFICATE OF SUSPENSION OF CONDEMNATION OF IMPROVED PROPERTY
(for use with or without cottage rental units)

ISSUED TO:

Tract 17T2747

THIS IS TO CERTIFY that, the authority of the Secretary of the Interior to acquire land, water, and other property, and improvements thereon within the boundaries of the Cape Cod National Seashore, by condemnation, under the provisions of the Act of August 7, 1961 (75 Stat. 284,287), is suspended as to that certain Property in the Town of Truro, County of Barnstable,

Commonwealth of Massachusetts, described as follows: Lot No. 10 and Lot No. 11 on a plan of land in Truro entitled "Long Dune Ridge, George A. Thatcher, Prop. May 1949, John R. Dyer, Registered Land Surveyor," which said plan is duly filed with Barnstable County Registry of Deeds in Plan Book 87, Plan 59, containing 3.9 acres.

The property covered by this certificate was acquired by the present owner from

George A. Thatcher by deeds ~~which were recorded in the Registry of Deeds in the County of Barnstable, Massachusetts~~
March 3, 1955, and
dated Aug. 10, 1954 and recorded in Barnstable County Registry Book 886, Page
and Book 912, Page 456.

316/ If the improvements on the above-described lands existing at the issuance of this certificate should be damaged or destroyed by fire, storm, or other causes beyond the control of the owner, and repaired or replaced with improvements

COPY

of the same character as those customarily enjoyed in the use of the premises, constructed in accordance with zoning requirements, then and in that event this certificate shall automatically become applicable to the improvements as so repaired or replaced.

The authority to acquire the herein-described improved property by condemnation has been suspended for the reasons that zoning bylaws acceptable to the Secretary have been adopted by the town in which the property is situated.

The Secretary may terminate the suspension granted under this certificate by giving written notice to the owner of the herein-described property of the intention to effect such termination if (1) zoning regulations approved by the Secretary and applicable to such property are revoked or revised in a manner not acceptable to the Secretary, (2) the property is made the subject of a variance under or an exception to zoning bylaws adopted by the town and approved by the Secretary pursuant to the Act of August 7, 1961, supra, and such variance or exception is not approved in writing by the Secretary, or (3) any new use or development occurs on said property which is in violation of zoning bylaws approved by the Secretary for the Cape Cod National Seashore. If after the giving of such notice, the owner continues to subject the herein-described property to the adverse development or use which was cause for issuance of the notice, this certificate will be revoked and, thereafter, the property to which it refers may be acquired by condemnation.





